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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

14 Cr. 68 (KBF)

5 ROSS WILLIAM ULBRICHT,

6 Defendant.

7 -----x

8 New York, N.Y.

9 May 29, 2015

1:10 p.m.

10 Before:

11 HON. KATHERINE B. FORREST,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA,

16 United States Attorney for the
Southern District of New York

17 BY: SERRIN A. TURNER

TIMOTHY HOWARD

18 Assistant United States Attorneys

19 JOSHUA DRATEL

LINDSAY LEWIS

20 WHITNEY SCHLIMBACH

JOSHUA HOROWITZ

21 Attorneys for Defendant

22 ALSO PRESENT: VINCENT D'AGOSTINO, Special Agent, FBI

GARY ALFORD, Special Agent, IRS

23 JARED DER-YEGHIAYAN, Homeland Security

Investgations

24 Molly Rosen, Government Paralegal

Nicholas Evert, Government Paralegal

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(Case called)

THE DEPUTY CLERK: Counsel, please state your names for the record.

MR. TURNER: Good afternoon, your Honor. Serrin Turner for the government, along with Timothy Howard from the U.S. Attorney's office, Special Agent Gary Alford from the Internal Revenue Service, Special Agent Jared Der-Yeghiayan from Homeland Security Investigations, and paralegals Nicholas Evert and Molly Rosen of our office. Also, I left out Vincent D'Agostino, Special Agent from the FBI.

MR. D'AGOSTINO: Good afternoon.

THE COURT: Good afternoon to all of you.

MR. DRATEL: Good afternoon, your Honor. Joshua Dratel with Ross Ulbricht standing beside me; Lindsay Lewis, Whitney Schlimbach, and Joshua Horowitz.

THE COURT: Good afternoon to all of you.

We are here today for the sentencing of Mr. Ross Ulbricht who was convicted, after a jury trial, of seven crimes for which he is to be sentenced. Those crimes are as follows:

Count One is the narcotics trafficking count which carries a 10-year mandatory minimum with a statutory maximum of life;

Count Two, distribution of narcotics by means of the Internet, which also carries a 10-year statutory minimum and a statutory maximum of life;

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1 Count Three, narcotics trafficking conspiracy, which
2 carries a 10-year minimum by statute and a statutory maximum of
3 life;

4 Count Four, continuing criminal enterprise, which
5 requires a 20-year mandatory minimum with a maximum by statute
6 of life;

7 Count Five, which is conspiracy to aid and abet
8 computer hacking which carries a maximum penalty of five years;

9 Count Six, conspiracy to traffic in fraudulent
10 identification documents which carries a statutory maximum of
11 15 years; and

12 Count Seven, which is conspiracy to commit money
13 laundering which carries a statutory maximum of 20 years.

14 I am going to set forth for the record now the
15 materials that I have received in connection with this
16 proceeding and that I am relying upon. Of course, the trial
17 first and foremost, but also a number of submissions:

18 The defense had made a number of submissions including
19 a submission on May 15, May 22nd, May 27th, three submissions
20 on May 28th, one of which was an additional letter of support,
21 and a submission this morning on May 29th.

22 I want to point out just a few things about those
23 submissions and that is by no means to suggest that I will be
24 covering right here, at this very moment all of the content of
25 those, but just to point out a few things.

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1 One of the main points of the May 15th submission
2 relates to an argument that Silk Road was harm-reducing and
3 that this is a factor in favor of mitigation. And we will
4 discuss this more later in this proceeding.

5 Attached to the declaration of Lindsay Lewis were
6 additional declarations from a number of individuals written
7 for this proceeding:

8 Tim Bingham, who worked in the field of addiction and
9 works now in the field, inter alia, of motivational
10 interviewing;

11 Dr. Fernando Caudevilla from Spain, also known as
12 Dr. X;

13 Dr. Monica J. Barratt, who is a research fellow at
14 Australia's National Drug and Alcohol Research Center which is
15 part of the University of New South Wales in Sydney;

16 Meghan Ralston, a former harm reduction manager for
17 the Drug Policy Alliance and now working as a freelance policy
18 consultant for the Drug Policy Alliance;

19 Also attached was a resume of Dr. Mark Taff. The
20 Court has received, at this time, a summary of Dr. Taff's
21 conclusions and has now received a formal declaration in that
22 regard later.

23 Also attached were private communications between
24 Dread Pirate Roberts -- Mr. Ulbricht -- and Dr. X, including a
25 notation that Mr. Ulbricht paid Dr. X \$500 per week starting at

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1 one point in time, for his continued work on the Silk Road
2 forum.

3 There is also the forum thread from Dr. X which is
4 several hundred pages attached as Exhibit 4 to Ms. Lewis'
5 declaration. I have read each and every one of those posts and
6 in fact the entirety of every piece of paper submitted to me in
7 this proceeding.

8 There are also several articles:

9 Articles by Barratt, Ferris and Winstock regarding
10 Silk Road; an article by Ralston entitled, "End of the Silk
11 Road," Ralston. Another article, "Silk Road Was Safer Than the
12 Streets."

13 There are also a number of attachments to the May 22nd
14 submission including a letter from Mr. Ulbricht and
15 seven letters from a very broad array, an impressive array of
16 family and friends including his parents, his grandparents,
17 aunts, uncle, cousins, sister, brother, and a large group of
18 friends essentially from every stage of his life like his early
19 childhood, his young schooling, his college years, his grad
20 school years, and his professional life.

21 There were also attached a number of photographs of
22 Mr. Ulbricht with various people from his life, and a letter
23 from an individual who states that Dr. X assisted that
24 individual in kicking his or her drug habit.

25 There was also a submission, a third submission of May

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1 27th, and a fourth submission -- as I said, there were a number
2 of submissions -- on May 28th, but that's where the Court
3 received the Dr. Taff report, he is a forensic pathologist who
4 discusses whether, in his view, it is appropriate to causally
5 link the overdose deaths which are mentioned in the presentence
6 investigation report which is known by the acronym PSR to Silk
7 Road. Actually, a copy of Dr. Taff's declaration had been
8 provided as a courtesy to the Court by the defense counsel even
9 before it was formally submitted the day before at the Court's
10 request, for which I thank them.

11 The government made a number of submissions dated May
12 18, May 26, May 27th, and May 28th. The government also
13 submitted five victim impact statements. They submitted those
14 twice so there were two separate submissions but it is the same
15 victim impact statements both times.

16 The Court has also reviewed a number of additional
17 materials specifically in connection with this proceeding after
18 receiving, in particular, the defense materials. There were a
19 number of articles, as I mentioned, that were attached to those
20 materials, and the Court felt it not only appropriate to read
21 those articles but also appropriate to explore some of the
22 material that was cited in those articles. So, the Court
23 indicated to counsel that it was doing so, requested the
24 receipt of certain information including certain harder to get
25 articles which were then provided, and the Court has reviewed

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1 those.

2 The Court also looked at a few references from those
3 articles into other articles and I am now going to set forth
4 for the record the articles I have read. It is not
5 particularly typical to go through all of the articles a Court
6 reads in connection with any sentencing proceeding, but because
7 they were submitted as part of the defense submission and
8 relied upon therein, the Court does believe it is appropriate
9 to give a complete indication as to the array of articles that
10 the Court read in connection with this proceeding. So, they
11 are as follows:

12 Michael Tonry, "The Mostly Unintended Effects of
13 Mandatory Penalties," 2009.

14 The Brennan Center's, "What Caused Crime to Decline?"
15 2015.

16 Cullen, Johnson and Nagin, "Prisons Do Not Reduce
17 Recidivism," 2011.

18 Green & Winik, of Yale, "Using Random Judge
19 Assignments to Estimate the Effects of Incarceration and
20 Probation on Recidivism Among Drug Offenders," 2010.

21 Kleck, Sever, Li and Gertz, "The Missing Link in
22 General Deterrence," 2015.

23 Caulkins, Rydell, Schwabe and Chiesa, "Mandatory
24 Minimum Drug Sentences, Throwing Away the Key or the Taxpayers
25 Money?" Rand, 1997. I only read chapters 2, 4, 5 and 6 of that

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1 book.

2 Martin, "Lost on The Silk Road," 2014.

3 Barratt, Ferris and Winstock, "Use of Silk Road, The
4 Online Drug Market Place in the U.K., Australia and the U.S.,"
5 Addiction, 2013. Addiction is the name of the
6 publication/periodical.

7 Also, Addiction, "Commentary on Barratt, *et al*," 2014.

8 Ralston, "The End of Silk Road, Will Shutting Down the
9 eBay for Drugs Cause More Harm Than Good?" 2014.

10 Ralston, "Silk Road was Safer Than the Streets for
11 Buyers/Sellers," 2015.

12 Hout and Bingham, "Silk Road: The Virtual Drug
13 Marketplace," 2013.

14 Hout and Bingham, "Surfing the Silk Road," 2013.

15 Hout and Bingham, "Responsible Vendors, Intelligent
16 Consumers: Silk Road, the Online Revolution and Drug Trading."

17 Fox-Brewster, "There is No Evidence Dark Websites Like
18 Silk Road Reduce Violence." 2015.

19 Corazza, *et al*, "Phenomena of New Drugs on the
20 Internet," 2012.

21 Aldridge and Decary-Hetu, Not an eBay for Drugs: The
22 cryptomarket 'Silk Road' as a Paradigm-Shifting Criminal
23 Innovation.

24 Martin, "Drugs on the Dark Net," 2014, which is
25 different than his other publication.

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1 The ACLU's 2013 study of life sentences.

2 The Sentencing Project's 2013 study of life sentences.

3 Johnson and McGuinigall, "Life without Parole," 2008.

4 Appleton and Grover, "Pros and Cons of Life Without
5 Parole," 2007.

6 Mauer, Ryan and Young, "The Meaning of 'Life,'" 2004.

7 In addition, the Court also requested a number of
8 searches be run on the Silk Road website in connection with a
9 number of assertions that were made in some of the submissions
10 and, in particular, as to whether or not drugs were sold mostly
11 for personal use or whether they were sold in wholesale
12 quantities as well as some other facts the Court wanted to
13 explore. By order of the Court listing those searches,
14 requested those searches be performed, or that a copy of the
15 site be provided to the Court.

16 The government then provided a computer which had the
17 site loaded onto it. Defense counsel was present when that was
18 provided to the Court. The Court ran those searches which it
19 had indicated in its order and reviewed those searches in
20 connection with this.

21 Now I want to go into the Fatico issue.

22 There are a number of facts at issue in this
23 proceeding and on April 24th, the defense counsel requested an
24 adjournment of the sentencing that was originally set for May
25 15th because of some information that had been provided. It

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1 wanted an opportunity to develop facts, consult with people,
2 and determine whether or not it wanted to have a Fatico. It,
3 at that time, indicated that it would likely request such a
4 hearing. On April 28 the government responded to that letter.

5 The Court then, on April 28th, granted the request
6 for an adjournment and set May 22nd down as a date for a Fatico
7 hearing. A Fatico hearing is a hearing to determine facts that
8 are necessary for a sentencing if those facts are contested.
9 It doesn't have to be done through a hearing, it can also,
10 under many circumstances, be done on a written record. But,
11 that's what a Fatico relates to.

12 On May 15th the defendant made its submission, as I
13 have already discussed and recited, which indicated that it was
14 not seeking a Fatico but submitted the extensive additional
15 material which I have mentioned. In light of those additional
16 factual materials, the Court asked whether the government
17 requested a Fatico. The Court did that by order dated May
18 18th.

19 The Court also stated that it assumed that the parties
20 understood that even if they waived a Fatico hearing, the Court
21 would make any necessary factual findings based on the evidence
22 in the record. That statement was contained in the Court's
23 order of May 18th. By letter dated the same day, May 18, the
24 government agreed that it did not request a Fatico hearing and
25 the Court received no further reference to a Fatico hearing

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1 from defense counsel.

2 Now, as I had mentioned, there are a number of
3 actively contested factual issues between the parties. The
4 defendant has not conceded those facts and, as I have said,
5 there is no necessary reason to have a live evidentiary
6 proceeding where live witnesses testify. The Court believes it
7 has the necessary factual record before it to make the
8 appropriate factual determinations and will do so at the
9 appropriate time in this proceeding and based upon that
10 evidentiary record. Any factual determinations would be based
11 on the standards set forth in a vast number of cases in the
12 Second Circuit which indicate that such findings are made at
13 sentencing proceedings or in connection with sentencing
14 proceedings by a preponderance of the evidence.

15 I want to confirm, however, that in light of all of
16 the very recent submissions -- and there are submissions most
17 recently by the defense but also submissions by the government,
18 that no one is seeking a Fatico hearing which would require an
19 adjournment of the sentencing today.

20 Mr. Turner?

21 MR. TURNER: That's correct, your Honor.

22 THE COURT: Mr. Dratel?

23 MR. DRATEL: Yes, your Honor.

24 THE COURT: Thank you.

25 Now, let me turn to the PSR.

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1 The PSR notes an offense level of 43 which is the
2 highest possible offense level but a Criminal History Category
3 of I which is the lowest possible Criminal History Category.
4 The PSR will be made part of the record in this matter and
5 filed under seal, and if an appeal is taken then counsel on any
6 appeal may have access to the PSR without any need for further
7 application to the Court.

8 Mr. Dratel, have you reviewed the PSR with your
9 client?

10 MR. DRATEL: I have, your Honor.

11 THE COURT: Are there any additional objections to the
12 PSR apart from those which are contained at pages 75 to 77 of
13 your submission of May 22nd, which we will go over in some
14 detail?

15 MR. DRATEL: Also, in I think yesterday's submission
16 we had the formal objection to the two points for the credible
17 threats of violence. I am not articulating it the same way so
18 I want to bring up the formal objection.

19 THE COURT: The Court had seen such an objection and
20 included it in my notation of objections previously indicated
21 so I think we are all set.

22 Was there anything else?

23 MR. DRATEL: No, your Honor.

24 THE COURT: So. I am going to go through the factual
25 disputes in a moment. So, before I adopt any factual findings,

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1 I am going to go through the factual issues.

2 Now, first before we get there I want to examine the
3 offenses of conviction. There was some back and forth. The
4 Court had issued an order indicating that while there are seven
5 counts of conviction there appears to be a legal reason why
6 certain of those counts must be, at the time of sentencing,
7 vacated.

8 On May 27th I issued an order suggesting that Count
9 One is a lesser included offense in Count Two and Count One
10 should therefore be vacated and that Count Three is duplicative
11 of Count Four and should therefore also be vacated. The
12 government responded by letter indicating that it agreed and
13 would proceed today to move to vacate those counts. I don't
14 think it needs to do so because I'm going to vacate them *sua*
15 *sponte*. The defense also agrees that those two counts should
16 be dealt with in that manner; however the defense, in addition,
17 argues that Count Two should be dismissed as it is a lesser
18 included offense in their view of Count Four and as it is also
19 a predicate offense to Count Four.

20 Now, just to be clear, what we are talking about,
21 Count Two is the sale of narcotics by means of the Internet and
22 Count Four is the continuing criminal enterprise. Count One is
23 just the narcotics sales and Count Three is the conspiracy.
24 So, Count One and Count Three are vacated. Count Two and Count
25 Four the Court does not find require any further action.

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1 The Court's rationale is as follows:

2 The Court first refers to the Supreme Court's
3 decision in the Rutledge case which is a 1996 case, also the
4 Blockburger decision, Supreme Court, and the Second Circuit's
5 decision in Andino.

6 Count One charges narcotics trafficking. Count Two
7 charges narcotics trafficking over the Internet. It is clear
8 Count One is a lesser included offense of Count Two and that's
9 why it is vacated.

10 The Court also finds that Count Three, which is the
11 conspiracy, is a lesser included offense of the continuing
12 criminal enterprise which requires you find all elements of
13 Count Three in order to find Count Four. That is specifically
14 the situation found in Rutledge.

15 Counts Two and Four, however, are not duplicative.
16 Count Two is a substantive offense. Congress intended that
17 they be separate offenses and under the Supreme Court's
18 guidance in the Garrett case, 105 S.Ct. 2407, separate
19 punishments may be imposed. The Court has considered defense
20 counsel's arguments set forth in the May 28th submission but I
21 disagree with defense's points. There is case law directly on
22 this issue which is contrary to the defense arguments.

23 In Garrett, the Supreme Court considered whether a
24 charged substantive and predicate offense had to be vacated at
25 sentencing in light of a conviction on a CCE as well and the

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1 Court held it did not. It reviewed the statute, the CCE
2 statute, and determined that, "Congress intended the CCE
3 provision to be a separate criminal offense which is punishable
4 in addition to and not as a substitute for the predicate
5 offense. Insofar as the question is one of legislative intent,
6 the Blockburger presumption must, of course, yield to a plainly
7 expressed contrary view on the part of Congress. And the Court
8 later held that the CCE offense is indisputably not the same
9 offense as a predicate substantive offense.

10 I would also refer to the Second Circuit's Amen
11 decision, 1987, also holding that double jeopardy does not
12 preclude prosecution nor does it preclude later the subsequent
13 punishment for both counts.

14 Accordingly, the Court vacates only Counts One and
15 Three.

16 The Court also notes that in the event of an appeal
17 and if one of the remaining counts were to be dismissed, there
18 is Second Circuit case law and also there are statements in
19 Rutledge about what happens in just such a circumstance. One
20 of the vacated counts can be unvacated and can be reinstituted
21 as an offense of conviction, if that were to occur.

22 The vacatur here is due solely to the reasons that I
23 set forth above.

24 Now, these dismissals occur prior to any guidelines
25 calculations and prior to sentencing leaving sentencing only as

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1 to Counts Two, Four, Five, Six and Seven. So, now I move on to
2 the guidelines.

3 I want to go through the correct calculation in some
4 detail because the PSR has certain corrections which need to be
5 made and there are certain clarifications which are important
6 to make. I used the November 2014 guidelines which are in
7 effect on the date of sentencing. Because there are multiple
8 counts of conviction, the Court has to turn, and it is a rather
9 complicated procedure to determine how you assess and come up
10 with the guidelines calculation in such a circumstance, but the
11 Court turns to Section 3D1.1 for the procedure for determining
12 offense level on multiple counts. You look at the counts
13 first, you determine which ones are grouped together; second,
14 you determine the offense level applicable to each group under
15 3D1.3; and then you determine the combined offense level by
16 taking into account the rules set forth in 3D1.4.

17 3D1.2 deals with groups of closely related counts.
18 Subpart B provides that when two or more acts or transactions
19 are connected by a common criminal objective or constituting
20 part of scheme or plan, they can be grouped. And that is
21 really the most applicable here.

22 3D1.3(a) also provides that when grouping occurs under
23 3D1.2(a) through (c), the offense level of the group is the
24 highest offense level for the counts grouped. But, if grouping
25 occurs pursuant to (b), the offense level for the group is the

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1 offense level for the aggregated quantity and then the highest
2 offense level is used. Thus, for (b), it is the aggregate
3 behavior which is the driver of the offense level.

4 In both cases the offense level includes all of the
5 adjustments per application note 1 to 3D1.3. The Court
6 believes it is proper to refer to 3D1.2(b) for Counts Two and
7 Four because only Two is determined primarily by quantity.
8 But, the Court notes that it is frankly irrelevant, and to the
9 calculation if one were to use one or the other subpart, the
10 CCE count, Count Four, is connected to Count Two by a common
11 criminal scheme or objective, hence the use of subpart (b).

12 Now, probation asserts that because Counts Five and
13 Six represent a separate type of harm they are not included in
14 the first group. The Court agrees. Selling narcotics and the
15 harm that comes from that is clearly distinct from the harms
16 relating to computer hacking and the computer hacking
17 conspiracy and a false identification document conspiracy.

18 Here, operating the Silk Road website involved the
19 computer hacking conspiracy and the identification document
20 conspiracy but they are different harms. So, therefore, Two,
21 Four and Seven are grouped in Group One; Count Five, Group Two;
22 and Count Six, Group Three.

23 Now to the calculation.

24 The money laundering offense in Count One, which under
25 the statute 1956, it requires that the Court look at the

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1 underlying narcotics offense to guide the offense level
2 calculations. The Court looks first to the CCE count which is
3 Count Four and 2D1.5 provides that the offense level is the
4 greater of the offense level from 2D1.1 plus four levels, or
5 38.

6 If we turn to 2D1.1, we calculate the number of kilos
7 of cocaine, the number of kilos of heroin, the number of kilos
8 of meth for a total equivalency for marijuana which is the way
9 the guidelines are written, of 60,720 kilos. That corresponds
10 with an offense level of 36 under 2D1.1(2).

11 The Court next looks to the specific offense
12 characteristics and this is where we get into some of the
13 contested facts and it is now that I will make and begin to
14 make certain factual findings.

15 The first factual finding relates to the direct abuse
16 of violence.

17 Under 2D1.1(b)(2) there would be a two-level upward
18 offense level adjustment for the directed use of violence.
19 Because it is contested, the Court must make appropriate
20 factual findings if it is to include it. The standard by which
21 I do that is by a preponderance of the evidence. Ulbricht's
22 directed violence here is and relates to the murders for hire
23 which he is alleged to have commissioned and paid for. The
24 Court must determine whether these allegations have been
25 demonstrated by a preponderance of the evidence and I find that

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1 there is ample and unambiguous evidence that Ulbricht
2 commissioned five murders as part of his efforts to protect his
3 criminal enterprise and that he paid for these murders. There
4 is no evidence that he was role-playing.

5 The Court finds that the evidence is clear and
6 unambiguous and it far exceeds the necessary preponderance
7 findings, that Ulbricht believed he was paying for murders of
8 those he wanted eliminated, and that he believed they had in
9 fact been murdered. He was told his first victim had a wife
10 and several children. That fact was known to Ulbricht and it
11 is never mentioned by him in connection with his consideration
12 of the murder. The consequences flowing from the murder of a
13 man with his family is never, so far as the Court can tell from
14 the record, considered.

15 When he commissioned the hit on other of what he
16 thought was one person, Tony76, he learned that Tony76 was
17 apparently someplace -- located someplace with three other
18 individuals. Ulbricht then agreed and paid for a hit on all
19 four of them. There is no evidence in the record that he knew
20 them -- these other three folks -- that he ever dealt with
21 these three folks or had any beef with them at all. He
22 commissioned the hit without regard to who they were, to the
23 fact that they had a right to life. He never asked if they had
24 families, he never expressed any concern for them at all.

25 The evidence of this murderous intent and the actions

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1 specifically taken by Ulbricht to commission the hits is based
2 on trial exhibits including Ulbricht's own journal and his
3 chats with the individuals he hired to oversee the murders and
4 it was not, as I have said, role-playing.

5 He commissioned the hits, there is no discussion of
6 hypotheticals, he paid actual funds. He paid hundreds of
7 thousands of dollars which were, in fact, paid. He is told
8 when the murders are completed, he was provided with a photo of
9 the murder scene with random numbers that he had provided to
10 the would-be assassins. That there had been no confirmation of
11 any of the deaths does not eliminate the fact that he directed
12 violence and directed the use of violence.

13 So, the Court finds by a preponderance of the evidence
14 that the addition of the two-level enhancement is appropriate.

15 The Court turns to the next enhancement which is
16 2D1.1(7). If the defendant, or a person for whose conduct the
17 defendant is accountable, distributed a controlled substance
18 through mass marketing by means of an interactive computer
19 service one adds two levels.

20 The Court has considered whether in light of the fact
21 that Count Two is a substantive offense using the Internet the
22 addition of this enhancement is in fact appropriate. It is.

23 Because the offense level is the same for conviction
24 under 841(a) and 841(h), the enhancement here which refers to
25 the use of an interactive computer service is not duplicative

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1 and the punishment is not cumulative.

2 In terms of any findings necessary to support the use
3 of the factual predicate for that, the Court finds by a
4 preponderance of the evidence that Silk Road operated, of
5 course using the Internet, and that the drug sales occurred
6 over the Internet on a slick website intended to and in fact
7 marketing drugs to a mass audience. Therefore, the two-level
8 enhancement is appropriate by a preponderance of the evidence.

9 The next enhancement is 2D1.1(B)(12), which relates to
10 maintaining a premises for the purpose of manufacturing a
11 controlled substance and that would result in a two-level
12 enhancement.

13 The Court finds, by a preponderance of the evidence,
14 that this enhancement is appropriately applied. The evidence
15 at trial including Mr. Ulbricht's own journal entries indicate
16 that he rented a house to make psychedelic mushrooms, that he
17 in fact made 10 pounds of such psychedelic mushrooms from that
18 house. The evidence is unambiguous, it is far beyond a
19 preponderance, and that two-level enhancement is appropriate.

20 The next increase is 2D1.1(b)(5). The offense
21 involved importation of methamphetamine. The PSR notes this on
22 page 18 but the calculation which is included in the PSR on
23 page 26 does not include that enhancement, though the total
24 aggregate calculation embodies it, it is just a mistake between
25 those two pages. But, if you try to add up what occurs on page

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26 you wouldn't get to 50 unless you go back to page 18.

The evidence at trial was clear and the Court so finds, by a preponderance of the evidence, that significant quantities of such narcotics were mailed from abroad to Silk Road customers within the United States. That's at the transcript pages 74 to 96; pages 177 to 183; and GX 804.

Also, there is an adjustment for the role in the offense -- but actually there is no adjustment for role in the offense for this particular group because, pursuant to application note 1 of 2D1.5, a Court is not to apply a leadership adjustment when the offense of conviction is a continuing criminal enterprise. However, because the defendant was convicted under a money laundering statute which is 18 U.S.C. 1956, there is an additional two leading to a total aggregate offense level of 50.

Group Two is for computer hacking. The Court looks to guidelines Appendix A to associate the statutory offense with the guidelines provision. That leads us to 2X1.1. That provision leads us to the substantive offense which is 18 U.S.C. Section 1030(a) which leads us to 2B1.1(a)(2), the base offense level is 6. There is a leadership role adjustment of four. That is based upon the Court's finding by a preponderance of the evidence that Mr. Ulbricht was the leader, the creator, the designer, the operator, the ultimate administrator of Silk Road. While he had help he was certainly

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1 the leader of Silk Road and the computer hacking conspiracy
2 related to that activity. So that enhancement is appropriately
3 applied.

4 The next enhancement for this second group is 2B1.1
5 which is that the offense was committed through mass marketing.
6 That is appropriately applied because the Court finds, by a
7 preponderance of the evidence, that the website was available
8 to all who had the browser and that marketing was intended to
9 reach as many people as it could reach, thousands if not
10 millions. The offense also utilized a sophisticated means and
11 so there is an appropriate two-level enhancement under
12 2B1.1(e)(10)(C).

13 The Silk Road itself included a number of
14 sophisticated means including the use of Tor which required
15 some amount of sophistication, the bitcoin tumbler of course,
16 the use of stealth listings, all of which support a
17 sophisticated means enhancement. That leads to a total of 14
18 for that group which is Group Two.

19 Group Three is Count Six only. The base offense level
20 is 11 pursuant to 2L2.1(a). There is a specific offense
21 characteristic of involving more than 100 or more documents or
22 passports and the Court finds, by a preponderance of the
23 evidence, that that factual predicate is found. Certainly
24 there is ample evidence to show that in terms of the sales of
25 such items at trial. That adds 9 to the 11 which is 20, plus a

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1 leadership adjustment. The Court has already discussed the
2 facts supporting a leadership role. That adds 4 for a total of
3 24.

4 Now, how one arrives at what the total offense level
5 is when you are dealing with these groups relates to looking at
6 the various aggregate totals and one adds also units.

7 Group One has one unit, no levels are added to the
8 offense level because that is essentially the one unit. No
9 units are also added to Groups Two, Three because they are nine
10 or more levels, less serious than Group One. So, the total
11 offense level is 50.

12 Pursuant to Chapter 5, application note 2, in the rare
13 cases when the total offense level exceeds 43, the offense
14 level becomes 43 and that is the appropriate offense level
15 here.

16 Counsel, are there any other arguments, other than
17 those which are addressed and set forth in your papers that you
18 would like to raise at this time or any disagreement you would
19 like to raise at this time?

20 MR. TURNER: No, your Honor.

21 MR. DRATEL: No, your Honor.

22 THE COURT: Thank you.

23 The offense level then is 43 and the Criminal History
24 Category is I.

25 I am now going to turn to, Mr. Dratel, to your

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1 objections to the PSR and go through each of those.

2 There is an objection to paragraph 2, a typo. That is
3 fine to make a change from "dead" to "dread."

4 In paragraph 10 there is a suggestion about some
5 additional language to be included. The Court has no problem
6 with that language in paragraph 10.

7 In paragraphs 49, 60(A)(e) there is a request to
8 strike the language regarding the willingness to use violence
9 and for the payment of the \$650,000 for the murder for hire and
10 the related language. That request is denied for the reasons
11 the Court has already discussed. And, based on the findings
12 that I have made, the statements regarding Mr. Ulbricht's
13 willingness to use violence and the other language that is used
14 here is entirely appropriate.

15 Paragraph 60(B)(1) there is a request to strike a
16 reference to a leadership role in the conspiracy to aid and
17 abet computer hacking and that is denied. For the reasons set
18 forth above regarding the guidelines findings, the Court finds
19 that the sale of these materials could not have occurred
20 without Mr. Ulbricht. He was the leader and without the rules
21 that he implemented and oversaw and directed others to oversee
22 on his behalf, this would not have been possible. So, he was,
23 by all accounts, the leader.

24 Paragraphs 61 to 86 and 87, there is a request to
25 strike the references to the overdose deaths. That request is

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1 also denied.

2 I am now going discuss the factual basis for the
3 inclusion of the overdose deaths in the PSR.

4 The PSR states that the overdose deaths are included
5 as they are related to Silk Road. The defendant contests that
6 the drugs sold through Silk Road cannot be shown to have caused
7 the deaths of those identified in the PSR as having died
8 following the ingestion of narcotics. But, this is not the
9 standard of proof that is required for inclusion in the PSR.

10 The defendant is not convicted of killing these
11 people. Those are not the offenses of conviction. This is
12 related conduct relevant to his sentencing. His guidelines are
13 not being enhanced for bodily harm to these individuals or the
14 suffering that they may have endured. The question as to
15 whether this information is properly included in the PSR is
16 whether the Court finds, by a preponderance of the evidence
17 that the deaths, in some way, related to Silk Road. And, they
18 do.

19 Indeed, the evidence is really quite clear on this
20 point so the question is not the but-for causation which was
21 addressed in the defense submissions.

22 As a related point, the Court has determined that for
23 the same reason it is appropriate for the decedent's relatives
24 to speak at this proceeding to the extent they so request. I
25 would note that there is a definition of crime victims that is

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1 contained in 18 U.S.C. 3771(b)(2)(D). However, that definition
2 is not, in and of itself, controlling, as to what the Court can
3 determine is a victim for purposes of a sentencing proceeding.
4 But, I do find, nonetheless, that the decedents here constitute
5 victims under that provision. A victim is simply person
6 against whom the offense is committed. It does not mean that
7 the victim, him or herself, could not be participating in some
8 way or manner in the conduct that is ultimately leading to his
9 or her own death.

10 Here the relevant offense committed is the unlawful
11 distribution of drugs and the running of a criminal drug
12 enterprise, *inter alia*, and there is no factual doubt that
13 based on the evidence before the Court, the sale of the drugs
14 through Silk Road caused harm to the decedents. Whether it was
15 a factor in causing their death, a contributing factor, or
16 somehow related to their deaths in close association is not a
17 decision that we have to make for today's purposes.

18 The Court's determination is supported by the
19 following:

20 The trial record of this matter established beyond
21 doubt that the types of drugs associated with the deaths of
22 each and every one of these individuals were in fact available
23 on Silk Road. But, in addition to that, there is a direct tie
24 to Silk Road to each of the decedents and to the purchase of
25 the drugs in proximate -- very proximate relation to their

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1 death.

2 On May 18, 2015, the government provided the Court
3 with a DVD that contained extensive information associated with
4 the deaths of each of these six individuals. That DVD is made
5 part of the record in this matter and is filed under seal. If
6 an appeal is taken, counsel on the appeal may have access to
7 that DVD without further application to the court.

8 On that DVD are materials which specifically link each
9 decedent to the drug purchased by themselves or through another
10 who purchased the drugs from vendors through Silk Road. The
11 drugs were used by the decedents immediately prior to their
12 deaths.

13 On April 29 and then again on May 26, the Court
14 received five victim impacts statements which contained
15 additional detail the Court does rely upon that for its
16 findings herein.

17 The Court received also the declaration of Dr. Mark
18 Taff dated May 26. He is a forensic pathologist retained by
19 the defendant.

20 The defendant's basic argument is that it is not
21 appropriate to hold Ulbricht responsible for these deaths and
22 the defendant cites to the Burrage case, the Supreme Court case
23 from 2014. But the case is entirely inapposite. In that case
24 the Court was confronted with the question of whether a penalty
25 enhancement may be applied under a statute which was

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1 841(b)(1)(C) if a death can't have been shown to have been an
2 independently sufficient cause of death. Then it may have been
3 insufficient to support a statutory penalized enhancement.
4 There the drug had to have been the but-for cause of death.

5 The statutory scheme that was at issue was a statutory
6 scheme when "death results," and in that case if such a finding
7 had been made, then Burrage's -- the defendant's -- penalties
8 would have been increased thus the element had to be submitted
9 to the jury. That wasn't new law, the *Alleyne* case and the
10 *Apprendi* case before that found something that was quite
11 similar.

12 But, here the deaths of the users set forth in the PSR
13 to which the victim impact statements relate are not the basis
14 for any kind of statutory penalty enhancement. These are not
15 the crimes of conviction, this is related conduct which is
16 entirely appropriate for a sentencing Court to take into
17 consideration in a sentencing proceeding.

18 The government, in its submission of May 26, 2015,
19 lays out the fact which tie each of the decedents to Silk Road
20 and they do that in some detail. And I will talk about the
21 decedents more in just a moment, but let me comment on
22 Dr. Taff, his examination relates to the manner of death for
23 what he uses, what he refers to as the six-stage death
24 investigation. He finds in each instance information is
25 missing regarding at least one stage of the six-stage process.

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1 He states in some cases no autopsy was performed and
2 there was no cause of death that could be reliably be
3 determined.

4 He also indicates that without certain pieces of
5 information, it is impossible for a medical examiner to render
6 certain types of opinions and he states that what are deemed
7 overdoses may be death by suicide or other causes.

8 He opines that he is unable to render opinions to a
9 reasonable degree of medical certainty as to the cause, manner
10 and time of death with each of the decedents except for
11 Alejandro. As to him he agrees that NBOM was one of several
12 drugs which caused his death. But, Dr. Taff is asking a
13 question which this Court does not need answered. It is just
14 the wrong question. The Court is not asking whether the but
15 for cause of death is drugs purchased on Silk Road. It doesn't
16 have to be but-for. The Court's question is whether there is a
17 connection between the purchase of drugs on Silk Road and death
18 and whether the drugs were ingested -- those drugs purchased on
19 Silk Road were ingested and whether the ingestion of those
20 drugs may be reasonably associated with those deaths.

21 The Court can make such findings by a preponderance of
22 the evidence and can make reasonable inferences based upon the
23 available circumstantial evidence and I make those reasonable
24 inferences based upon that circumstantial evidence now. There
25 is strong and even more than sufficient circumstantial evidence

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1 to show the connection. I am only going to go very briefly
2 through a few of these. I want to just describe the connection
3 so it is clear on the record.

4 Jordan M., who was 27 years old, found dead of an
5 overdose. There was an express mail package torn open in the
6 room where he was found, there was heroin and needles near him.
7 How is it tied to Silk Road? His computer had two browser
8 windows open, one displayed Silk Road. The decedent's private
9 message inbox showed messages with a vendor describing a
10 purchase, the package tracking and receipt. The package
11 tracking on the Silk Road site corresponded with that on the
12 open window, the second open browser window on the U.S. Postal
13 Service site which corresponded with the number on the express
14 mail envelope found with the decedent at his death.

15 It appeared from a prior message dated August 24th
16 that this individual had ordered Valium and Xanax in the past
17 but he had not previously ordered heroin through Silk Road, and
18 he inquired about ordering it for the first time.

19 The Court finds by a preponderance of the evidence
20 that the death is properly associated with the receipt of
21 heroin from a vendor on Silk Road and purchased through Silk
22 Road. The Court also finds by a preponderance of the evidence,
23 including the autopsy report and notwithstanding the contrary
24 statement by Dr. Taff, that he died of an overdose.

25 Would this individual have died at that time without

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1 the drugs purchased through Silk Road? It would be speculation
2 to even suggest that he could have. What we know is that he
3 died in the manner that he did and that his death was connected
4 to Silk Road.

5 For Preston B., he was a 16-year-old boy who received
6 a powerful synthetic drug called NBOM from a friend. The
7 friend made a statement in which he told the police, after the
8 decedent's accident, he purchased it from Silk Road to share
9 with his friends on prom night and that he had not purchased on
10 Silk Road before, that he had only ever used cannabis before.
11 The decedent is known to have ingested this drug and he had a
12 terrible reaction and jumped from a balcony of a hotel and he
13 subsequently, after being hospitalized, died.

14 The Court finds, by a preponderance of the evidence,
15 that Preston's death is properly associated with Silk Road and
16 that his death was related to a purchase of drugs from Silk
17 Road. Would he have died on that evening if Silk Road had
18 never existed? To suggest so is pure speculation. We know
19 that he died after having ingested drugs available to him
20 through Silk Road.

21 In terms of Bryan B., he was found dead with heroin
22 next to him and a syringe. Forensic analysis of his computer
23 revealed that he had run searches on his laptop for heroin in
24 Boston suggesting that he did not have a local source. Other
25 searches indicated that he had found Silk Road, downloaded Tor,

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1 and obtained bitcoins. Silk Road was marked as a favorite
2 website. A PGP key for encrypting communications was
3 established by him on September 25th, 2013. That very same day
4 he contacted a vendor and stated, "This will be my first
5 order." He placed his order for heroin the next day. He also
6 bought syringes. The package arrived on October 1st and he was
7 last heard from on October 4th. The package he received
8 contained enough for 5 to 10 doses. The heroin and syringe
9 found next to his body closely resembled those that he ordered.

10 The Court finds, by a preponderance of evidence, that
11 Bryan B.'s death is properly associated with Silk Road. It is
12 reasonable to infer that the heroin he consumed was related to
13 his death and that it is reasonable to assume and to infer from
14 the circumstantial evidence that he received that heroin from a
15 vendor on Silk Road. Would he have died in the absence of that
16 heroin? It would be pure speculation to think that.

17 Alejandro N. took NBOM from a friend who told law
18 enforcement that he obtained it from a dealer. The dealer was
19 then arrested. The dealer was interviewed. The dealer stated
20 that he had received the drug from a vendor on Silk Road. The
21 police were able to confirm that a vendor by the name given to
22 them by the dealer in fact sold NBOM on Silk Road.

23 The Court finds, by a preponderance of the evidence,
24 that Alejandro's death is properly associated with Silk Road.
25 Drugs sold by Silk Road vendors were a contributing factor, at

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1 least in his death, and even so agrees Dr. Taff. Would the
2 dealer have obtained NBOM elsewhere in the absence of getting
3 it from Silk Road? It would be pure speculation to think so.

4 Jacob L., a 22-year-old from Australia, was found
5 dead. There were multiple drugs in his system. He also had
6 pneumonia and the autopsy indicated that he may have been less
7 aware of the severity of his illness due to the presence of
8 drugs in his system. The Silk Road server revealed that the
9 decedent had an account which had been used to place several
10 dozen orders for heroin, as well as for other drugs found in
11 his system at the time of his death, including meth and crack.

12 The Court finds, by a preponderance of the evidence,
13 that purchases from Silk Road are properly associated with the
14 death of Jacob L.

15 Attached to Exhibit 16 of the Lewis declaration are
16 pages from Jacob's Silk Road account. There is a list of
17 favorite vendors. The court performed searches on those
18 vendors and confirms that those Silk Road vendors sold a large
19 array of subject drugs.

20 There are additional objections in the PSR that
21 resolves those objections as to the inclusion of the
22 information relating to the overdose deaths:

23 Paragraph 94 says, discusses a calculation of the base
24 offense level. We have dealt with that.

25 Paragraph 146 requests a correction that Mr. Ulbricht

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1 has not owned a particular house for several years. That
2 correction is appropriate and will be made.

3 Finally, the defense objects to the inclusion on page
4 38 of the justification. The Court does not adopt, at any time
5 ever, the justification section of the PSR. The Court only
6 ever looks to the factual statements so the Court does not
7 address the justification. That is from probation itself and
8 it stands separate and apart.

9 Do counsel have any other arguments apart from those
10 which were raised in their papers which they would like to
11 raise at this time?

12 MR. TURNER: No, your Honor. Thank you.

13 MR. DRATEL: Just obviously, your Honor, we object to
14 findings that the Court made.

15 THE COURT: Understood, Mr. Dratel.

16 The Court then does adopt the factual findings set
17 forth in the PSR and the additional factual findings that the
18 Court has made.

19 We have been going for 55 minutes at this point. We
20 are now at the portion of the proceeding where we are going to
21 hear from the family of two of the victims, I understand; from
22 the government; from Mr. Dratel; and from Mr. Ulbricht if he
23 would like to address the Court. The question is whether or
24 not we need to take a break right now or whether or not we
25 should just go ahead and continue. I would note if we take a

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1 break, anybody who leaves the room has to come back through the
2 additional security that is outside the courtroom at this time.

3 MR. TURNER: The government is fine proceeding, your
4 Honor.

5 MR. DRATEL: We are okay proceeding, your Honor.

6 THE COURT: All right. So, those individuals who are
7 in the audience, if somebody happens to need a short break you
8 will have to go out. You are welcome to go out and come in,
9 you are welcome to go through security but don't hesitate to do
10 so, if you need.

11 So, I understand that we have the parents of two of
12 the victims here in court today, Mr. Turner?

13 MR. TURNER: That's correct, your Honor. The father
14 of the individual referred to in the government's submission as
15 Bryan B. and the mother of Preston B.

16 THE COURT: So, would the father please, of Bryan B.,
17 please approach, sir?

18 RICHARD: Good afternoon, your Honor. Can you hear me
19 okay?

20 THE COURT: I can, sir. Thank you.

21 RICHARD: My name is Richard and I am the father of
22 Bryan whose death was referred to in the government's
23 sentencing document. I greatly appreciate the opportunity that
24 you are giving me to speak on behalf of my son.

25 I have already written a letter to you to describe

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1 Bryan and how he died from an overdose of heroin supplied by
2 Ross Ulbricht's Silk Road. If I may, your Honor, I would like
3 to present you with some pictures of Bryan that I think will
4 help illustrate some of the things I said in my letter to you
5 as well as another important point that I want to make today.

6 May I?

7 THE COURT: Yes, sir. Thank you.

8 Do you have an extra copy for counsel, by any chance?

9 RICHARD: I do.

10 THE COURT: Thank you.

11 RICHARD: It has been nearly 20 months since I buried
12 my son. As I wrote to you in my letter, I could not have been
13 more shocked when I received the phone call on the morning of
14 October the 7th, 2013, to tell me that my son was dead. As far
15 as I knew and as far as anyone who was close to him knew, Bryan
16 did not do drugs.

17 Bryan and I were very close; we talked, e-mailed or
18 texted nearly every day. In fact, several days before he died
19 I received an e-mail from Bryan that said, among other things,
20 how much he had grown to dislike marijuana, mainly because of
21 the effect that he saw in a number of his friends he said, and
22 I quote, "The older I get, the more pothead friends I see
23 becoming deadbeats."

24 As I wrote to you, I spent the next several months
25 after Bryan's death trying to understand what happened.

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1 Ultimately, I discovered Bryan had very likely tried heroin
2 during his senior year in college, realized what a mistake he
3 had made and spent parts of the next three years successfully
4 fighting off cravings to do it again. He hid this from nearly
5 everyone.

6 My letter described Bryan as a great-looking, athletic
7 and intelligent young man. He was careful about his health and
8 what he ate. He often rose at 5 a.m. in the morning to work
9 out in the gym before he went to work. He shopped for organic
10 food and sometimes asked my wife for healthy recipes that he
11 could cook. While Bryan was certainly impulsive, he was
12 planning for a long life ahead. He lectured his friends to
13 make the maximum contribution to their retirement plans, just
14 like he did.

15 The pictures I have given you illustrate the point I
16 made in my letter: He was the last person anyone would have
17 imagined to die from a drug overdose. Two of those photos were
18 taken during the time of my daughter's wedding in early July, a
19 little less than three months before he died; one was from a
20 ski trip in early 2013; and two were from a family bike trip in
21 the summer of 2012. But I want to draw your attention to one
22 particular picture and that is the one I have indicated with an
23 asterisk. It is a picture of Bryan with his arms around my
24 wife's niece and her boyfriend. In particular, I want to point
25 your attention to the marks on Bryan's left forearm. They're a

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1 little hard to see. There is a series of well-delineated cuts
2 that I didn't notice until he had moved to Boston in late July.
3 Can you see them?

4 THE COURT: Yes.

5 RICHARD: He never gave me a good explanation of how
6 those marks got there no matter how many times I asked him.
7 However, after his death, one of his close friends shared with
8 me what he had told her a few months before he died. He put
9 them there, he said, as a reminder to not do drugs. We now
10 know that he had this struggle and it breaks all of our hearts
11 to know that he was struggling and he asked no one for help
12 because he wanted no one to know. He was managing to fight
13 these urges until he discovered Ross Ulbricht's Silk Road. The
14 lure of Silk Road's convenience, the anonymity, the use of an
15 untraceable payment system, the low risk of detection by law
16 enforcement or parents or family or friends, it all overpowered
17 Bryan.

18 As I indicated in my letter, the forensic analysis of
19 his computers and phone show us exactly what happened. He
20 discovered Silk Road while doing an Internet search. He
21 downloaded the Tor browser. He transferred money from his bank
22 account to a bitcoin account. He set up several new e-mail
23 accounts, as per Silk Road's instructions. And then, he
24 ordered heroin.

25 They arrived by the U.S. mail. He died from an

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1 overdose a few days later. The U.S. mail packaging from the
2 Silk Road dealer was a few feet away from his body when he was
3 found. The toxicology study discovered only one illegal drug
4 in his body: Heroin.

5 When I spoke to the pathologist she wanted me to know
6 that Bryan was in exceptional health before he died of an
7 overdose.

8 Since Ross Ulbricht's arrest, my family and I have
9 endured the persistent drumbeat of his supporters who proclaim
10 Mr. Ulbricht a hero and persistently portray his crimes as
11 victimless.

12 To add insult to injury, Mr. Ulbricht's defense now
13 touts Silk Road's remarkable harm-reduction with the absurd
14 argument that the website that sold more drugs to more people
15 than any drug dealer ever before was performing a great service
16 to society.

17 Early in the trial the prosecution revealed that Silk
18 Road generated \$200 million in revenue in its existence. With
19 drugs like heroin selling for relatively low prices, Bryan's
20 Silk Road purchase was less than \$200. I found it. Just
21 imagine how many individual drug transactions it would have
22 taken to get to \$200 million in sales. And, keep in mind that
23 Ross Ulbricht collected a commission on every sale.

24 Where, exactly, is the harm reduction in that volume
25 of drug sales?

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1 By removing all the hurdles to get dangerous drugs
2 Silk Road expanded the market. Professionals, like my son,
3 were not going to take the risk of buying drugs from a dealer
4 on the street with all the inherent dangers that came with it.
5 I strongly believe that my son would be here today if Ross
6 Ulbricht had never created Silk Road.

7 But, sadly, when their harm reduction argument wasn't
8 enough, Ross Ulbricht's defense team took things to an even
9 lower level: They blamed the victims. I can't speak for the
10 other victims of Silk Road but I can speak for my son and I can
11 point out the statements made by Ross Ulbricht's lawyers about
12 my son's death and the recent court filings that are blatantly
13 false. They claim that Bryan was 20 years old. He had turned
14 25 a week before his death. They claim that the source of the
15 heroin was "unknown" when there was a mountain of evidence to
16 show that it came from Silk Road. And, worst of all, they
17 quoted a Boston police report saying that, "the victim was
18 known to the Commonwealth," and speculated that Bryan had a
19 prior drug-related arrest.

20 Bryan moved to Boston in late July that year. He
21 lived there slightly over two months before he died. The only
22 reason he was, quote unquote, known to the Commonwealth, was
23 because he was found dead in his apartment from an overdose of
24 heroin that was supplied by Ross Ulbricht's Silk Road. He had
25 never been arrested for anything in his life and I deeply

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1 resent the sinister innuendo that he was a chronic drug abuser
2 who had been in trouble with law enforcement before.

3 Your Honor, I know that punishing Ross Ulbricht is not
4 going to bring my son back. The past 20 months have been more
5 painful to my family and me than anything I can ever describe.
6 I lost my only son. My daughter lost her only sibling. We
7 have lost someone who we treasured and deeply loved. Bryan
8 never saw his 26th birthday. He never met my daughter's first
9 child. He won't be there for any more family holidays, ski
10 trips, or bike trips. We won't be going to Bryan's wedding.
11 We won't be caring for his children. And, I will never see my
12 son in the role of a father. We no longer get his funny texts
13 and e-mails and no longer hear his contagious laugh.

14 We know that sending Ross Ulbricht to jail won't fix
15 any of those things but in this country we build prisons for
16 two primary reasons: To punish those who commit crimes, but
17 also to protect society from dangerous criminals whose behavior
18 is a threat to others.

19 Through Silk Road, Ross Ulbricht had one clear aim:
20 To enrich himself by taking a commission on every drug
21 transaction. He did not consider the fallout on society from
22 the expansion of the market for dangerous drugs. He did not
23 consider people like my son who were so vulnerable to Silk
24 Road's deadly combination of convenience and anonymity, and he
25 did not concern himself with the simple fact these drugs are

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1 illegal for a reason. They offer no medicinal value and
2 they're all highly addictive. Once hooked, the addict loses
3 the ability to choose. All Russ Ulbricht cared about was his
4 growing pile of bitcoins.

5 This is the behavior of a sociopath and this is
6 exactly the kind of person society needs protection from. Your
7 Honor, Ross Ulbricht deserves the most severe sentence the law
8 will allow.

9 Thank you for allowing me to speak in your courtroom.

10 THE COURT: Thank you for speaking, sir.

11 We now have the mother of Preston B.

12 VICKY: Your Honor, my name is Vicky and I'm here
13 today not only for myself but for my son Preston -- my late son
14 Preston, and family and friends.

15 I have got some photos here that I would like to give
16 to you and I would like to read you my impact statement.

17 THE COURT: Yes.

18 VICKY: Your Honor, Friday the 15th of February, 2013,
19 was my son Preston's school ball or what you would call
20 something different. I assisted him getting ready that day and
21 he looked so handsome. I enjoyed the company of many parents
22 at the before gathering. I was about to leave when I asked him
23 for a photo. Preston said: Thanks mum for your help. I love
24 you. And he placed a kiss on the side of my cheek. His last
25 words to me and this was the photo of my last kiss from my son.

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1 The next day was Saturday the 16th of February, 2013.
2 This would be one of the worst days of my life.

3 I received a phone call around 9:45 p.m. from my
4 ex-husband Rod and daughter Aimee informing me that Preston had
5 been in a bad accident and was being taken to St. Charles
6 Gairdner Hospital. At the hospital we were ushered into a
7 private room where a doctor and a social worker were there to
8 talk to us about Preston's condition. They prepared us on the
9 extent of his injuries and what was likely to happen. Preston
10 had suffered severe head injuries and they would have to
11 operate immediately to reduce the swelling on his brain. I
12 asked if I could see him before they prepared him for surgery.
13 When I entered the emergency room, I noticed there was a lot of
14 blood coming out from his right ear. There was staff
15 surrounding Preston with all types of apparatus to keep him
16 breathing while continuing to monitor his observations.

17 Preston laid lifeless on the trolley. Due to the
18 swelling to the brain they wanted to operate to remove part of
19 his skull. I returned to the emergency room with my daughter
20 Aimee who said: Hang in there, Preston. And I said: I love
21 you, son. Hang in there. Everything will be okay. They're
22 going to look after you.

23 We went back to the family room and waited. It seemed
24 like a long time. During that wait the doctors came in and
25 told us that Preston lost all dilation to his pupils. They

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1 were not going to go ahead with the surgery as it was going to
2 be too dangerous. They were going to administer a medication
3 instead.

4 Shortly after the Doctor left the social worker came
5 in and she said: Sorry you've lost Preston. And we were in
6 shock because we had not been told this by the doctor at that
7 stage. From the emergency room he was transferred to the
8 intensive care unit. There were multiple meetings with
9 specialists and organ donation coordinators in the event that
10 Preston was to lose his life.

11 I left the room and collapsed in total shock curling
12 up on a ball on the floor crying in disbelief at what was
13 happening. The night before was only his school ball.

14 On Saturday night family were coming in and they knew
15 the outcome wasn't going to be good, that Preston may not
16 survive. On the Saturday afternoon we understood from some of
17 Preston's friends that what had happened to him was somehow
18 connected to drugs.

19 While Preston was at his after-party, a friend handed
20 him a tablet, a synthetic, and was told by his friend who
21 purchased it online from Silk Road that the drug was only to
22 make you stay awake and make you feel happy.

23 I was surprised to learn later that if you bought 10
24 for \$20 you could get one free to liven the pot; delivered
25 after three days directly to your door, no proof of age was

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1 required and it was delivered by international couriers. I
2 believe this is something he would not have gone to the streets
3 to find. He was not a drug addict. Silk Road made it easily
4 accessible to anyone, children included.

5 From what I am told after taking the drug Preston
6 became extremely aggressive and he was talking in what his best
7 friend explains as another language. He couldn't understand
8 him. He became resilient and abusive towards his friend of
9 whom he had known since kindergarten. His friend could not
10 control him or get him to go down the stairs of the resort
11 where he had been visiting friends. Preston was afraid of
12 something and kept saying no, no. He didn't want to go down
13 the stairs. So, his friend went to get his other mates to help
14 him. That's when Preston jumped from the second story of the
15 hotel.

16 On the Sunday morning about 200 people came to the
17 hospital. They were all lined up waiting to see him. It was
18 quite extraordinary that they allowed all of his friends to
19 visit given that it is an emergency -- 200 people.

20 I took the first group into the ICU unit to say their
21 final good-bye. We were extremely grateful to all the ICU for
22 allowing this to happen. When I took them in I said this is
23 what drugs will do to you. If you take drugs, this is going to
24 happen. And the nursing staff advised me that I had better
25 tone it down for the next group of people. That's not what I

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1 felt. I felt angry that he had taken this synthetic drug. I
2 just held on to hope that some miracle may happen and that my
3 little boy was going to be okay.

4 Seeing all of his friends coming in, most of them were
5 crying. It was so hard. Sunday was very busy chauffeuring all
6 of his friends and family to see Preston. We realized that day
7 just how much Preston was loved by many friends. He was an
8 extrovert with a genuine heart. Once he told me, Mum, I don't
9 know anyone that I don't like and who doesn't like me. At that
10 time I took it as him just being a bit of a show off but he was
11 telling the truth.

12 He gave people guidance and wasn't judgmental.
13 Preston was wise beyond his years which I had relayed to me on
14 numerous occasions from many of his friends, parents and
15 friends.

16 Monday, the 18th of February, 2013, would be the worst
17 day of my life. Preston had an MRI. Not long after the
18 doctors came in, they sat down in the interview room and told
19 us that he had died from a catastrophic brain injury. There
20 was no blood flowing through his brain. I asked, How do we
21 know when to turn off life support? What length of time do we
22 wait because maybe a miracle may happen and he would come
23 around. The Doctors showed us an x-ray of a healthy skull and
24 then the x-ray of Preston's skull. We could see quite clearly
25 that there was no blood flow to his brain. He was pronounced

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1 dead.

2 From then we had organ donor coordinators to come in
3 to meet with us. We all agreed that organ donation would be
4 what Preston would have wanted given his caring nature. It
5 seemed as if we were making a shopping list of organs to
6 donate. We were spending as much time as possible with Preston
7 just holding his hand and talking with him. I even gave him a
8 sponge bath given that soon we would have to be saying our last
9 goodbye.

10 Wednesday was the day that was scheduled for his
11 operation. The three of us, my ex-husband Rodney, my daughter
12 Aimee and I, walked down to the theater to say goodbye to
13 Preston. We watched as the theater doors closed and at that
14 moment that was the last time I saw my son. His organ
15 donations did save many lives.

16 We then made funeral arrangements. Preston was quite
17 lucky. He had two memorial services; one was held at his high
18 school, and one for family and friends.

19 Preston was very popular and a well-known young
20 teenager. We were getting constant phone calls from reporters.
21 He was always involved in many sporting activities, football,
22 and baseball to name a few. We lived in the same area for many
23 years. He was house captain many times, perfect, and received
24 citizenship awards.

25 Preston had many friends during his short life. His

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1 passing has affected a lot of people. A yearly football match
2 is played in his honor against two teams which he has played
3 for, for remembering the outstanding citizen that he was and to
4 promote the effects of drugs.

5 I think I was numb for the first 12 months after
6 Preston's death. It was the hardest year, 2014. The numbers
7 had worn off. I was crying all the time. When things got
8 harder, I truly pushed people away. These feelings can be
9 overwhelming, especially on anniversaries.

10 I am very concerned about my daughter Aimee's well
11 being and how she spends most of her time in the bedroom. And
12 she and Preston had a very good relationship. She was his
13 nurturing big sister and Preston was her protector. They
14 hardly ever fought.

15 Often I would look at old messages from Preston on my
16 phone. Generally, I tried to keep busy and not overthink about
17 what happened and life without him. We keep Preston's ashes at
18 home. Sometimes I just hold them and get a blanket, his
19 blanket, and try to get close to him and other times I get
20 really mad. Why did it happen? Why did Preston do it? He had
21 so much to live for. One stupid synthetic tablet cost him his
22 life. I mean, who knows who manufacturers these drugs and
23 where they are manufactured. Continually they're tweaking the
24 ingredients to avoid detection. I believe if he had never
25 taken this synthetic drug he would still be with us today.

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1 I know that all our children have done stupid things
2 or made bad choices. I don't deny or condone what Preston did
3 by taking the drug. Some are lucky, some are not,
4 unfortunately. Preston's consequences were death and I know
5 now I would wait until the afterlife to see him again.

6 Thank you.

7 THE COURT: Thank you.

8 The Court will now proceed in the following manner
9 which is I will ask the government to speak first, Mr. Dratel
10 and then Mr. Ulbricht if he would like to address the Court
11 before sentence is imposed.

12 Mr. Turner.

13 MR. TURNER: At the podium, your Honor?

14 THE COURT: Yes. Thank you.

15 MR. TURNER: So, as your Honor just heard from two
16 victims of the defendant's crime from opposite sides of the
17 world -- one from Boston, Massachusetts and the other from
18 Perth, Australia -- both lost loved ones due to drugs from the
19 same place: Silk Road. I think their presence here today
20 underscores the global reach of the defendant's drug
21 trafficking enterprise. It is no exaggeration to say that what
22 he did allowed anyone anywhere in the world to obtain any drug
23 they wanted as long as they had a computer and shipping
24 address. The site radically lowered the barriers to selling
25 and buying drugs. It was designed to do that and it did do

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1 that and these are some of the resulting consequences. This
2 was not a victimless crime.

3 Even the defendant now, in his letter to the Court,
4 acknowledges that Silk Road became, as he puts it, "a
5 convenient way for people to satisfy their drug addictions."
6 But what is disingenuous about that statement, your Honor, is
7 the claim that he also makes in the letter that he never
8 anticipated this happening. That drugs were safe is naive and
9 impulsive. He said he started the site for idealistic motives
10 but since learned that "taking immediate actions on one's
11 beliefs without taking the necessary time to really think them
12 through, can have disastrous consequences." This is another
13 variation of the revisionist history that the defense tried to
14 peddle at trial; that the defendant started Silk Road but he is
15 not responsible for what it grew into. And that is
16 preposterous.

17 This was not some rash decision by a young kid who
18 didn't know any better. The defendant was not a kid when he
19 started Silk Road, he was a grown man with plenty of
20 intelligence and education and he knew exactly what he was
21 doing. He studied the idea of Silk Road for months, planned it
22 for months. He ran it for nearly three years. He supervised
23 every aspect of its operation. He knew it through and through
24 and he understood perfectly well what was sold on it. He was
25 the one who decided what could be sold. And as for drugs, his

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1 policy was very clear: Anything goes.

2 He knew that the drugs he was selling included highly
3 hazardous substances, highly addictive substances. This is not
4 some sudden realization he has had in prison. There is no
5 mystery here. We are 50,000 heroin sales on the site, 80,000
6 cocaine sales, 30,000-plus methamphetamine sales. There is no
7 sudden realization now that he may have been fueling drug
8 addictions.

9 At any point the defendant could have shut this site
10 down. At any point he could have walked away. And we heard
11 Richard Bates testify at trial that he in fact tried to get
12 defendant to walk away, tried to find something to do that was
13 legal. But he never walked away, he was committed to it
14 through and through. This was a purposeful, deliberate crime
15 with full awareness of what he was doing. He did not do it
16 simply for idealistic motives. He did it, in significant part,
17 to make large amounts of money.

18 If you wanted to sell on Silk Road you had to pay him
19 a cut. That was the rule. That was a rule that he was quite
20 emphatic about, that he and his support staff constantly
21 labored to enforce. And the only purpose of that rule was so
22 that he could reap huge profits from his illegal enterprise.
23 Which he did. He fantasized about often becoming a billionaire
24 all from drug money. This was not some disinterested
25 do-gooder.

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1 Obviously, there are also the murders for hire. On
2 multiple occasions this defendant tried to have people killed
3 in order to protect his enterprise spending well over half a
4 million dollars on those attempts.

5 So, this is no idealistic naive who doesn't understand
6 the criminality of what he was doing, this is someone who was
7 emulating a traditional drug kingpin because he understood that
8 he was essentially in the same business.

9 Now, in addition to money and power did the defendant
10 have other motivations? Without doubt. He was motivated, in
11 part, by a political agenda but that is no excuse for what he
12 did. If he wanted to pursue a political agenda he could have
13 done so through the political process. He was not entitled to
14 legislate his own policies on the Internet whether it was drugs
15 or fake I.D.s or computer hacking or guns or child pornography.
16 You don't get to say that I think these things should be sold
17 without restriction and therefore I am going to do it, whatever
18 the law says. You can't do it on the street, you can't do it
19 in cyberspace. The Internet is not a license to flaunt the
20 law.

21 Your Honor, in summary, the defendant is guilty of a
22 very serious crime. He leveraged the Internet to partner with
23 thousands of drug dealers around the world. He distributed
24 massive quantities of drugs in total. He amassed millions of
25 dollars in profits. He lowered the barriers to drug use. He

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1 made it easy for anyone, anywhere, to obtain the drugs they
2 wanted. Serious harm resulted as illustrated by the deaths
3 highlighted in the PSR. He knew exactly what he was doing the
4 whole time and for all of these reasons, as we have stated in
5 our letter, we request a lengthy prison sentence substantially
6 above the mandatory minimum.

7 Thank you.

8 THE COURT: Thank you, Mr. Turner.

9 Mr. Dratel?

10 MR. DRATEL: Thank you, your Honor.

11 The standard for sentencing -- for a reasonable
12 sentence is sufficient but not greater than necessary to
13 achieve the purposes of sentencing and we have submitted enough
14 paper that I am not going to repeat what is in there but just
15 cover a couple of principles that we talked about in our papers
16 that I think are important and that is the guiding principle,
17 sufficient but not greater than necessary to achieve the
18 purposes of sentencing.

19 In that context you are sentencing a person, a young
20 man who, like all of us, is not as good as his best conduct and
21 is not as bad as his worst conduct. It is the totality of the
22 person that the Court has to sentence. And I think to a
23 certain extent the Court, part of the sentencing mandate is
24 about projecting into the future. The future is what is the
25 defendant going to be like and what is the world going to be

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1 like.

2 The situation we have here is a 20-year mandatory
3 minimum sentence so I will start with that in the sense that I
4 think that in 20 years if he is released no one will say that
5 was too short. But, I think when we start to get beyond that
6 and into the higher reaches that within a short period of time;
7 five, 10 years, because of the defendant, because of the world,
8 because it will be removed from the emotional aspect of today's
9 proceeding, that it will be clear to a majority -- overwhelming
10 majority, it is too long to achieve the purposes of sentencing.

11 What does a longer sentence achieve? In the context
12 of the purposes of sentencing I suggest it does not achieve
13 anything. I think that the Court, based on the letters that
14 the Court has received including Mr. Ulbricht's letter, I think
15 that the concept of specific deterrence is really not an issue
16 here when you talked about the length of the sentence even
17 under the mandatory minimum term.

18 I am not even sure the government is making that
19 argument in that regard.

20 I know the Court has already decided on the issue of
21 the consideration of some of these other aspects of the
22 government's presentation but I think it is important that
23 minimizing, not diminishing the nature of the personal
24 tragedies involved, the trauma, the pain. That is all genuine
25 and legitimate but we have to step back and look at the

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1 perspective of what the role is today in sentencing.

2 I think intent and impact are important in the context
3 of what the emotional content has brought to this and not even
4 the government can suggest that this was an intended result,
5 but the impact and intent are no different than every drug case
6 that involves an organized sale of drugs or even the
7 disorganized sale of drugs.

8 You talk about volume. The government talks about
9 50,000 heroin sales, that's about 73 a day over two years to
10 Silk Road. A small organization with two corner spots in this
11 city does that in an hour. Cocaine? 80,000. They do that,
12 when you break that down, they do that in an hour.

13 These stories are real but they are present in every
14 case. No one is saying this is a victimless crime. That is a
15 red herring. But, I will say it is not in every case, the
16 countervailing factors that we have set forth. And this is not
17 us, this is not coming from the defense, these are independent,
18 objective professional researchers who studied this site. They
19 didn't study it for sentencing, they studied it before. They
20 weren't commissioned by us, they did this on their own as part
21 of their own professional obligation to tell the truth about
22 what is going on with these situations, to be realists. And
23 this is a difference from the average, ordinary drug operation
24 but the other part is no different yet the government would
25 want the Court to enhance the sentence based on what is present

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1 in every case that is not part of the enhancement and that is
2 disparity from every other drug case.

3 Another part of disparity is this concept of the
4 general deterrence, and in addition to the fact that there is
5 no science or math or any other objective measurement that
6 sustains the concept of general deterrence, also as a question
7 of justice is, Is it disparate? How is it measured? How is it
8 applied in a courtroom in this court house?

9 On Tuesday, someone who worked for Silk Road for
10 nearly a year, through its most profitable, highest volume
11 period during the period when five of these deaths occurred,
12 the government never sought an enhancement, he walked out of
13 the courtroom, essentially. He got time-served; 14 months,
14 essentially.

15 So, what is the message there versus the message here?
16 There is no message, it is a sentence of a human being. It is
17 the same foreseeability for Mr. Nash. It is the same
18 foreseeability for anybody involved in any drug operation yet
19 it does not result in the kinds of sentences that are
20 contemplated here by the government.

21 In the concept of general deterrence if you are
22 looking at the difference between a 20-year sentence and a
23 greater sentence, I suggest that even reduces it even further.
24 I don't know how you can get further than zero but it reduces
25 it even further because what you are talking about is the

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1 margins that someone is going to say, well, I won't do it -- I
2 will do it if it is 20 years in jail but I won't do it if it is
3 25. That's not generally deterrent. Even beyond the ordinary
4 scholarship on general deterrence that just even reduces it
5 even further. That is more disparity.

6 We have talked about the -- we have submitted the
7 figures on sentences in this district -- nationwide, and in
8 this district and that is another disparity to be avoided in
9 this case. Even people who commit intentional murder have, the
10 average is about 270 months. That's for intentional murder.
11 You need to keep that in mind when talking about disparity and
12 sentencing the person matching the offender, the circumstances,
13 and the offense. And I submit there is no justice in saddling
14 Mr. Ulbricht with all of that, with all of the general
15 deterrence, with all of the victim impact that occurs in every
16 case that no one else gets as part of their sentence that he
17 bears the burden of all of that.

18 I think, ultimately, we submitted 100 letters to Court
19 on his behalf. The number is not important, the quality is.
20 These are letters with detail, with specifics, people who
21 really know this defendant, who know Mr. Ulbricht, have known
22 him for a long time with a lot of different connotations. And
23 I said it in the papers, that is true. You can't reconcile
24 some of this. We acknowledge that. But that goes towards what
25 the purpose of sentencing is and how to achieve it with a

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1 reasonable, rational, appropriate sentence for Mr. Ulbricht.

2 I think those letters and I think all of the
3 information that the Court has including his own letter
4 demonstrate what Mr. Ulbricht is capable of in the future, that
5 the solution for pain is not more pain. The solution for
6 suffering is not more suffering. It is what is sufficient but
7 not greater than necessary to achieve the purposes of
8 sentencing.

9 So, I submit that down the road, even at 20 years,
10 that would be sufficient but not greater than necessary. No
11 one is going to look back and say that is too short. This is a
12 complex situation with a defendant who has a lot to offer in a
13 positive way, already has in his life to others in many ways,
14 and obviously this case represents a departure from that. The
15 question is are you going to shut it off completely? Shut it
16 off for how long? Or are we going to have an opportunity for
17 positive outcome somewhere down the road for this case because
18 we can't correct the other parts now. That's beyond our power.

19 Thank you, your Honor.

20 THE COURT: Thank you, Mr. Dratel.

21 Mr. Ulbricht, would you like to address the Court
22 before sentence is imposed?

23 THE DEFENDANT: Yes. Thank you.

24 Before you sentence me, your Honor, I want to tell you
25 about myself from my perspective. I recognize that it is hard

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1 to be objective when looking at one's self, but I do have a
2 unique point of view because only I know my thoughts and my
3 feelings and my motivations. And one thing I want you to know
4 is that I have changed. I'm not the man that I was when I
5 created Silk Road. I'm not the man I was when I was arrested.
6 I'm a little bit wiser and a little bit more mature and much
7 more humble.

8 I have spent 20 months in prison. For six weeks I was
9 in solitary confinement and, you know, there is very few
10 distractions in prison and I have spent a lot of time just
11 being with myself and grappling with the possibility that I
12 will never be free again and trying to come to grips with just
13 how I wound up in this situation, in this position, asking
14 myself where did I go wrong at various points along the way and
15 what should I have done differently. I wish I could go back
16 and convince myself to take a different path but I can't do
17 that. And I can learn from my past.

18 The testimony of these parents was incredibly moving.
19 I never wanted that to happen. I've essentially ruined my life
20 and broken the hearts of every member of my family and my
21 closest friends. I would never risk causing that kind of
22 heartache and loss ever again. If given another chance, I
23 would never break the law again.

24 One of the things I have realized about the law is
25 that the laws of nature are much like the laws of man. Gravity

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1 doesn't care if you agree with it -- if you jump off a cliff
2 you are still going to get hurt. And even though I didn't
3 agree with the law, I still have been convicted of a crime and
4 must be punished. I understand that now and I respect the law
5 and the authority now.

6 I also want to talk to you a little bit about my
7 character and my motivations. Since coming into the public eye
8 a lot of people have tried to characterize me and guess at what
9 my motivations were for creating Silk Road. As Mr. Turner
10 said, he believes it was for greed and vanity. I want you to
11 know that that is not true. I am just not a very greedy or
12 vain person by nature. I wasn't raised that way. I was taught
13 to share my blessings, to live, like, a humble, modest
14 lifestyle. I am not into status symbols or luxury, but more
15 than that, I remember clearly why I created the Silk Road. I
16 had a desire to -- I wanted to empower people to be able to
17 make choices in their lives for themselves and to have privacy
18 and anonymity. I am not saying that because I want to justify
19 anything that has happened because it doesn't. I just want to
20 try to set the record straight because from my point of view I
21 am not a self-centered sociopathic person that was trying to
22 express some, like, inner badness. I just made some very
23 serious mistakes.

24 Lastly, I would like to share with you what a second
25 chance would mean for me personally. I do love freedom. It's

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1 been devastating to lose it. If I had one more chance before I
2 pass on there are just little things, little joys that -- like
3 throwing a Frisbee to a dog in a park, you know? Or
4 Thanksgiving dinner with my family. That would mean a lot to
5 me. More than that, just being in the lives of my family
6 members and friends again. Decades from now many of them will
7 still be alive and if I take care of myself and stay strong and
8 sharp, if I do get out eventually I could possibly be a benefit
9 to their lives and not a burden on them. If there are any
10 children in my family at that time, nieces, nephews, what have
11 you, I could try to share the wisdom that I have gained with
12 them and try to help them out and not make the same mistakes
13 that I have. And, I also want you to know that it is just in
14 me to want to have a positive impact on our broader community
15 and my attempt at that with Silk Road ended in ruin, but if I
16 ever get the chance again I will be incredibly cautious and I
17 will make sure that anything I do, large or small, will only
18 have positive effects on those around me and will absolutely be
19 within the confines of the law.

20 I am so sorry to the families of the deceased.

21 Your Honor, I don't envy your position, it can't be
22 easy, but I want you to know that I am here and paying
23 attention and I am ready for whatever sentence you think is
24 wise.

25 THE COURT: Thank you, Mr. Ulbricht.

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1 What I would like to do is to take a break and to come
2 back in 10 to 15 minutes. I say that because while I don't
3 think I will need a break for 10 to 15 minutes, anybody who
4 leaves is going to have to come back in through security. So,
5 just be aware that you will have to go through again. So, I
6 want to give people time to get back in and get seated again.

7 I do think it is appropriate at this point to take a
8 break, so let's take a break for those few minutes.

9 Thank you.

10 (Recess)

11 THE COURT: In our system of law one Judge is tasked
12 with the very difficult and very serious responsibility of
13 passing judgment on another human being and it is a task which,
14 in my life, there is no more serious task. It is one I have
15 taken very, very seriously. I have spent well over 100 hours
16 on this sentence contemplating it, walking and being silent and
17 thinking about it, and running over and over and over it in my
18 mind from every angle I could think of.

19 I have tried very hard to come up with what is a just
20 sentence and in doing that I have tried to come up with what
21 does that even mean. And I have thought a lot about that.
22 What is justice? What is justice here? What does it mean
23 here? What does it mean here for you, Mr. Ulbricht, for this
24 defendant here now in our society at this time in this context
25 in which we find ourselves.

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1 I want to tell you how I arrive at my sentencing
2 decision but that will sound like some of the procedures, but I
3 want you to know the biggest part of the sentencing is just
4 thinking about each and every fact and consideration and
5 provision of law that I am required to look at again and again
6 and again from every possible angle.

7 Now, you have heard us talk about the guidelines. We
8 have to talk about the guidelines. We are required to come up
9 with what the appropriate offense level calculation is. We are
10 told that it is the first thing that we have to do and we have
11 to consider them. We have to consult them and I have done so.
12 But the guidelines, as your lawyer has said, which here are
13 life for you, the guidelines are not presumed reasonable. The
14 Court has to step back from what is otherwise a book of numbers
15 and look at the facts and the circumstances that are before it,
16 the human side of what is going on before the Court at that
17 time. The Court does that guided by the factors under the
18 statute, the federal statute that we call 3553(a) which is
19 where you find it in a book back when people actually looked in
20 a book, otherwise you enter it as a search time term and find
21 it online. 3553(a) requires that the Court look at certain
22 things. It requires that the Court look at the nature and
23 circumstances of the offense. I have to. It requires that I
24 look at the history and characteristics of the defendant; the
25 good and the bad, and to look hard and to make judgments that I

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1 can't possibly know if they're entirely right. They're my best
2 judgment with everything that I have applied to it. I can't
3 know you like you know you. I can't know you like your parents
4 know you. I can't know you like the people who gave birth to
5 you know you. But I have to try very hard to make a judgment
6 and I have to look at what I know about what you did that was
7 bad. And I have to, in all of this, ask for myself what is a
8 sentence that reflects the seriousness of the offense.

9 Now, the seriousness of the offense occurs in the
10 context of our society. It is not a seriousness of an offense
11 devoid of social context, it is what did you do here in our
12 community and I have to ask what is just punishment, as I said,
13 for that offense. What kind of punishment provides -- and I
14 have to look at it, the statute requires me to look at the
15 question of personal deterrence, general deterrence. These are
16 not things I can ignore. I have to ask whether there is any
17 educational, medical, vocational or correctional treatment that
18 suggests a particular sentence.

19 So, I have analyzed each and every one of these
20 factors here and I have analyzed them from every angle I can
21 possibly think of for you and it has been very, very difficult.

22 What sentence serves the ends of justice? I start
23 with the nature and circumstances of the crime and we have
24 talked about some of it already. The nature and circumstances
25 of the crime can be summed up as a planned, comprehensive, and

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1 deliberate scheme to do that which was unlawful and something
2 which posed serious danger to public health and to our
3 communities.

4 I, and you all know, that Silk Road was a worldwide
5 criminal drug enterprise with a massive geographic scope. And,
6 Mr. Ulbricht, you don't fit the typical criminal profile. And,
7 you know, it is not television or the movies here, right?
8 Where criminals look a little shady, their eyes are a little
9 shifty, they wear outfits that make them look like, you know,
10 criminals. You are educated. You have got two degrees; you
11 have a physics degree, you have a masters degree in applied
12 materials. You have an intact family. You have 98 people
13 plus yourself who are willing to write letters on your behalf,
14 maybe a hundred when the other ones had come in.

15 So, you are a complicated person and you are not the
16 typical criminal profile but this is real life and life is a
17 lot more collected than what we see in the movies or the kind
18 of people we might imagine as the typical criminals. We have
19 you and you're a criminal. And that word I know probably even
20 today may sound harsh to you but you stand convicted of seven
21 counts, we have now dismissed a couple of them, and you are now
22 to be sentenced on the rest.

23 Criminals are real life people. You are a real life
24 person. They're born to parents who love them, one hopes, if
25 they're lucky enough, as you were. And they're people who have

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1 relationships with other people in their lives who do not want
2 them to be incarcerated for any period let alone a very, very
3 long period. Those relationships are true, those are not fake.
4 You are not a criminal and then nobody loves you. That's not
5 the way the world works. Okay? So, not all criminals are bad
6 people in every way. People are much more complicated, they
7 are a fabric of different characteristics. But, how do I think
8 about you?

9 I think about the fact that you knew you were running
10 a criminal enterprise. And in the trial exhibit that is
11 Government Exhibit 229D you stated at one point in a
12 communication, *Gosh -- and I will quote it in a moment later --*
13 *When my friends ask me why don't you do this? Why don't you do*
14 *that? I don't have enough time. I'm running a multi-million*
15 *dollar criminal enterprise. It wasn't game and you knew that.*
16 It was an enterprise the stated purpose of which -- the stated
17 purpose of which -- was to flout the law, to be outside of the
18 law, to be beyond the law.

19 In the world that you created over time, democracy
20 that we had set up with our founding fathers that provide for
21 the passage of laws and the enforcement of those laws through
22 our democratic process did not exist. It wasn't about
23 democracy.

24 You were captain of the ship, as the Dread Pirate
25 Roberts, and you made your own laws and you enforced those laws

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1 in the manner that you saw fit. So, it wasn't a world without
2 restriction. It wasn't a world of ultimate freedom. It was a
3 world of laws that you created, they were your laws. It is
4 fictional to think of Silk Road as some place of freedom. It
5 was a place with a lot of rules and if you didn't comply with
6 the rules you would be bumped out of Silk Road, you would have
7 various kinds of things done to you that are all set forth in
8 the seller's guide, and here and there, and ultimately there
9 were, of course, some commissioned murders for hire when people
10 were making threats against the enterprise.

11 So, I don't find supportable the argument that the
12 website was started by an impulsive or naive young man. I give
13 you a lot more credit than that. I don't think you did
14 something thoughtless, I think you did something very, very
15 thoughtful with which I disagree entirely. I disagree with the
16 choice that you made but I don't think it was a choice that you
17 made without giving it deep thought.

18 I don't find supportable the argument that Silk Road
19 was an economic experiment. It was, in fact, a carefully
20 planned life's work. It was your opus. It may have been based
21 on some theory or some philosophy that you held, but it was no
22 experiment of philosophy and provides no excuse. You wanted it
23 to be your legacy -- you said that in some of the
24 communications introduced at trial -- and it is. It was a
25 project that you had an idea for, you carefully nurtured it,

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1 you took deliberate acts to set it up over years to put your
2 plan into motion and to perfect it and to continue to perfect
3 it and to improve it. That was not anything impulsive. That
4 is not the definition of impulsive. There was no experimental
5 quality to it, it was slick, it was professional, it was built
6 to last. And, but for the very hard and creative work of law
7 enforcement, it would still be going right now.

8 You spent several years very carefully planning the
9 site and designing carefully considered methods of avoiding
10 legal detection both for yourself, for your vendors, and for
11 your customers, and you sought in all of these ways to put
12 yourself above the law. There are so many documents which
13 demonstrate that that were introduced at trial.

14 You wrote the code and worked with others to perfect
15 it and others helped you with code and wrote some code for you.
16 You designed the terms of service, the seller's guide at
17 Government Exhibit 120, which advised the Silk Road clients on
18 anonymity, on how to sell things in stealth mode, how to use
19 stealth listing; that when vendors sell drugs they should do so
20 through the U.S. Postal Service which needs a warrant to open
21 packages, that to avoid detection in terms of smell how to do
22 that or who to talk to about it and how to "creatively disguise
23 the packages."

24 All the evidence shows that you viewed Silk Road both
25 as above the law and the laws didn't apply, and in this context

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1 the fact that the laws are what distinguished us from what is
2 uncivilized that they are the embodiment -- laws are the
3 embodiment -- and they are the manifestation of our democratic
4 process. When that gets lost, it becomes meaningless.

5 Silk Road's birth and its presence asserted that its
6 creator -- you -- and its operator -- were better than the laws
7 of this country and there are posts which discuss the laws as
8 the oppressor and that each transaction is a victory over the
9 oppressor. This is deeply troubling and terribly misguided and
10 also very dangerous.

11 Your own words I have looked at very carefully and I
12 have reread certainly more than once in this whole process.
13 They reveal a kind of an arrogance and they display an intent
14 that is very important to the Court's determination, and the
15 Court will go through some of the chronology of putting some of
16 your words into chronological order here now and I will give
17 you the Government's Exhibits but they're exhibits that were
18 all introduced at trial and which were all very, very familiar.

19 In GX 240A you wrote in 2010 that you began -- or
20 about 2010 that you began working on a project that had been in
21 your mind for over a year indicating, of course, the lack of a
22 last minute lightbulb going off, this was a well-planned
23 project, and you say: "The idea was to create a website where
24 people could buy and sell anything anonymously with no trail
25 whatsoever that could lead back to them." And that is not so

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1 much about the economics of it, of an economic experiment, that
2 is about a method of law evasion.

3 Then you state that, "I finally decided I would
4 produce mushrooms so that I could list them on the site for
5 cheap to get people interested." Then you describe the process
6 of making several kilos of mushrooms and selling them.

7 Then in 2011 you wrote: "I am creating a year of
8 prosperity and power beyond what I have ever experienced
9 before. Silk Road is going to become a phenomenon at least one
10 person will tell me about it, unknowing that I was its
11 creator."

12 Government Exhibit 240B; in 2011 you described the
13 technical build of the site and said that, "before long,
14 traffic started to build."

15 Also in 2011, you wrote proudly that Silk Road was
16 getting its first press from Gawker but you also wrote that two
17 senators came out against the site. And then you said: "I was
18 mentally taxed and now I felt extremely vulnerable and scared.
19 The U.S. government, my main enemy, was aware of me and some of
20 its members were calling for my destruction." And then you
21 changed your name to Dread Pirate Roberts; you devised a cover
22 story.

23 You say in Government Exhibit 240C in December of
24 2011, "Everybody knows too much. Dammit."

25 Government Exhibit 240D, January 1, 2012 you write,

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1 "Well, I am choosing to write a journal for 2012." And
2 footnote, it is still unclear to me why you ever wrote a
3 journal. But putting that aside, "I imagine that some day I
4 may have a story written about my life. It would be good to
5 have a detailed account of it."

6 In Government Exhibit 226A in March of 2012 you and
7 some employees run a promotional campaign with a prize for a
8 participant. In messages introduced at trial you point out to
9 your colleagues that it is a worthwhile thing to do and state:
10 "We will be doing a mil in sales" -- which I read as a million
11 but it says -- "a mil in sales every week at full commission
12 before long. I think it's leading by example for the vendors.
13 They will be more generous if we are. And we are selling drugs
14 here. First one's free, little Johnny. Damn, that sounds
15 awful." Followed by your colleagues saying, "Ha." And then
16 you say: "Sponge Bob canoe and life-size my little pony with
17 every hash purchase of 50 bitcoins or more."

18 And in Government Exhibit 226E in March of 2012, so we
19 are in the same time frame, you were discussing with an
20 individual called VJ -- Valerie Jones -- Variety Jones --
21 getting alternative citizenship because you were planning your
22 exit, and you stated that you already had your banking plan
23 worked out and your living plan worked out.

24 You also wrote additional messages in May of 2012 that
25 reveal that the winner of the Silk Road promotional contest had

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1 actually been trying to, unfortunately, dry out from heroin.
2 And you were told that the influx of cash as a result of that
3 promotional My Little Pony campaign didn't help and it is clear
4 that he has relapsed and that Silk Road had made it too
5 difficult. And you stated, "shoulda thought more carefully
6 about dropping 4K on an addict so maybe our next prize will be
7 three months in rehab."

8 And then, Government Exhibit 226E in May 2012, this
9 fellow VJ advises you to carefully create and nurture a public
10 persona and you respond "I'm not complaining about any of this,
11 great fucking problem to have."

12 Then, in 229C, still in May 2012, you were informed
13 that a vendor is selling cyanide. You were told, "it's only
14 the most well known assassination suicide poison out there."
15 And you consider whether to allow it to be sold because you are
16 the decision maker. In prior statements you had said that
17 things would not be sold that would harm another but within six
18 minutes from the start of this chain of this communication you
19 had made the decision that it is okay to sell cyanide.

20 In Government Exhibit 229D, that fall in October of
21 2012, you tell VJ that you have a little alibi for friends and
22 family and that "I'm clever so I can BS when I need to." And
23 that, "friends will tell me shit like, why don't you do this or
24 that, like I have all this free time. I just want to scream at
25 them 'because I'm running a goddammed multi-million dollar

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1 criminal enterprise.'" "

2 Then, in January 2013, you discuss with an employee
3 the risks of working for Silk Road. And when you are
4 discussing getting caught which the individual is concerned
5 about you state, "put yourself in the shoes a prosecutor trying
6 to build a guess case against you. What evidence could they
7 pin on you?"

8 Then, in Government Exhibit 241, March 2014, you wrote
9 a journal of short snippets of your day and you write -- and
10 each of these snippets is going to be one after another,
11 they're just tiny snippets with a period in between:

12 March 28: "Being blackmailed with user info. Talking
13 with large distributor, (hell's angels)."

14 Then, March 29th: "Commissioned hit on blackmailer
15 with angels."

16 April 1: "Got word that blackmailer was executed.
17 Created file upload script." So, you went back to the
18 technical work right after getting word that the blackmailer
19 had been executed. "Started to fix problem with bond refunds."

20 Government Exhibit 936 details communications relating
21 to that hit further. Apparently you were sent a photo of the
22 hit. The photo was no longer in existence, you acknowledge
23 receiving the photo and deleting it.

24 A short time later you wrote, on April 6: "Make sure
25 backup crons are working. Gave angels go ahead to find

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1 tony76." Who was the subject of the next hit. "Cleaned up
2 unused libraries on server."

3 Two days later on April 8 you write: "Sent payments
4 to angel for hit on Tony76 and his three associates. Began
5 setting up hecho as standby" -- I have no idea what that is --
6 "refactored main and category pages to be more efficient."

7 These are the words of a man who knows precisely what
8 he is doing and they're the words of a man who is callous as to
9 the consequences or the harm and suffering that it may cause
10 others.

11 You joke about an addict unable to contain his
12 addiction because of Silk Road and you seek to kill people that
13 you don't even know -- these are the words of a criminal and
14 that is truth.

15 The crimes as to which you stand convicted,
16 Mr. Ulbricht, are crimes which are intentional, they occurred
17 over a lengthy period of time, you knew exactly what you were
18 doing. This was not some sort of experiment, it wasn't some
19 sort of game. This is the general nature of Silk Road.

20 We have talked a lot about the drugs. There were a
21 vast array of narcotics. Silk Road is about fulfilling demand
22 and creating demands. It was market-expanding. It was market
23 fulfilling and market expanding and there are numerous facts in
24 the record that support this.

25 The facts brought out in connection with the victims'

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1 death provide evidence of first-time and expanded usage.

2 Mr. Duch, at trial, talked about becoming a new drug dealer for
3 the very first time. There are numerous messages with Dr. X in
4 which people discuss using a drug for the very first time.

5 There is no reason to believe and certainly we cannot
6 know whether, in the absence of the ease of use of privacy and
7 the other features of Silk Road, that these first-time users or
8 those trying different drugs for the first time would have done
9 so in the absence of Silk Road. It is just wishful thinking to
10 believe that Silk Road was a zero sum game.

11 Silk Road also distributed drugs anywhere that the delivery
12 service would take it worldwide -- DHL, Fed Ex, USPS --
13 bringing drugs to communities that previously may have had no
14 access to such drugs or in such quantities. That was an
15 assault on the public health of our communities.

16 In short, there is supportive evidence from which
17 reasonable inferences may be drawn that Silk Road grew the
18 market for certain drugs and certain suppliers, no doubt
19 leaving a trail of drug users and drug dealers in its wake.
20 You could buy heroin, crack, cocaine, meth, MDMA, steroids,
21 prescription pills. If it wasn't available that wasn't because
22 it was excluded from the site. You could have it shipped
23 anywhere. A vendor could have shipped it anywhere.

24 The quantities are staggering, we talked about those,
25 and there are materials by the defense that suggest that the

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1 drug laws -- and these are particularly why the articles are
2 misguided in many respects and also the harm-reduction
3 arguments are implicitly based upon much of that, and it is
4 rare in a sentencing to have the restrictions on drug
5 distribution to safeguard public health as something that we
6 need to argue about. And, in fact, we don't need to argue
7 about it but I think it is worth addressing given the attention
8 that it has gotten here.

9 There appears to be, in some of these articles that
10 were presented to the Court, some view that there is a moral
11 ambiguity about some of the drug distribution. There is no
12 moral ambiguity about it. It was just wrong. And that is what
13 our democratic process had said and there is a way to change
14 the law but it is not by doing what occurred.

15 No drug dealer from the Bronx selling meth or heroin
16 or crack has ever made these kinds of arguments to the Court.
17 It is a privileged argument, it is an argument from one of
18 privilege.

19 Let me start with the basic proposition: The impact
20 of heroin, crack, and meth sold in the Bronx, the impact of
21 those drugs sold in the Bronx are no better for our society
22 than those drugs that were sold through Silk Road. When those
23 drugs arrive it is the same drugs. You are no better a person
24 than any other drug dealer and your education does not give you
25 a special place of privilege in our criminal justice system.

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1 It makes it less explicable why you did what you did.

2 The social costs of drugs are manifest. The user is
3 only one part of the equation, that is where much of this harm
4 reduction argument comes from and it is focused on the user.
5 The user is one part of a massive, massive worldwide scheme of
6 drug trafficking and if you sat where I sat you would see that
7 the user is not -- it is not -- it is the tail wagging the dog,
8 it is the end. So, harm reduction focused on the user is
9 missing the point.

10 It is a fantasy, it is magical thinking to believe
11 that drug use can occur widely only in private places in some
12 sort of cocoon involving no one other than the user and never
13 involving what is surely predictable collateral damage, so
14 let's just talk about what some of the well known social costs
15 are that are necessary to talk about because of the articles
16 that were submitted.

17 Some drug users may lead functional lives day to day
18 or they may not. But, you don't know. Or, they may for a time
19 and they may not be able to sustain it.

20 Many drugs on Silk Road were highly addictive. Many
21 have harmful side effects. Many people have unpredictable
22 reaction. Repeated use of highly addictive drugs leads to a
23 host of clear social costs, costs that we all pay: People lose
24 the ability to function, they lose their jobs, they lose their
25 income, they lose their ability to have meaningful

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1 relationships and sustain those relationships. They lose their
2 ability to care for children and then those children get
3 neglected and then those children grow up and those children
4 grow up with models of parents who have been drug users and
5 addicts and may have had to engage in crime to sustain their
6 habits.

7 Another cost of addiction is an out-of-control life
8 and a life that is out of control can lead to assaults on loved
9 ones, to assaults on random strangers, to assaults on one's
10 self.

11 You can lose your home and then society picks up the
12 cost of the homeless families, the homeless kids, of the
13 parents who were drug addicts. There may be a social cost to
14 food stamps or welfare when people can't afford their food and
15 their kids can't afford the food because they can't have jobs
16 anymore because their drug addiction has driven them to such a
17 state.

18 The social costs associated with arrests for crime
19 committed to support the habit. Not the hand-to-hand drug deal
20 but when those people are addicted and when those people are
21 desperate, they're often stealing. They're stealing to support
22 the habit. That's robbery, it is burglary, or it is worse and
23 that violence was not taken into account in the articles that I
24 read. And, there is the cost of lawyers for the indigent
25 defendants who are then arrested for these crimes and then who

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1 are brought in to court not for drug crimes but for the violent
2 crimes that are the collateral effect of some of those drugs.

3 There are certainly costs in terms of medical expenses
4 that we, as a society, have to pay for the medical care
5 resulting from worsened use of drugs, from the individuals who
6 have medical conditions worsened by drugs.

7 The social impact of violence. Let there be no
8 mistake, there is no way in the world that Silk Road could
9 actually reasonably be expected to reduce violence. I have
10 reviewed each and every one of the articles that were submitted
11 and those articles have a very narrow focus and they fail to
12 deal with many of the very obvious facts.

13 Major violence on the streets during the hand-to-hand
14 transaction. That's been the focus of so much so-called harm
15 reduction argument. It is really, I think, quite misguided.

16 The facts are clear and there are just cases
17 everywhere about the way the drug world works, that drugs are
18 made available, first of all on the website itself, it shows
19 drugs made available in wholesale quantities; kilos of this,
20 kilos of that. So, it is not just hand-to-hand. All right?
21 So, those drug dealers, when they go out, where is the
22 hand-to-hand harm reduction for them? And drug dealers are
23 targets of violence. So, when they get their express mail
24 package in the mail and it is sitting in their apartment, are
25 they not the targets of somebody coming in? Does the mailman

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1 not show that he is delivering a package to John Doe?

2 But, there are also other places where the violence
3 comes in and so the violence isn't going to go away with one
4 Silk Road or with a thousand Silk Roads. Drug usage creates
5 demand. Silk Road, in part, based on the evidence we have
6 already seen, created people who hadn't tried drugs before that
7 was increasing the demand for certain drugs and Silk Road
8 wasn't making the drugs so the drugs are going to be made
9 elsewhere.

10 Let's take Afghanistan or Mexico as the place for
11 poppies for heroin. As we know, there is all kinds of violence
12 in terms of the production of drugs and Silk Road can't reduce
13 that violence because it is not involved in that part of the
14 chain. But, when it expands the market it is expanding the
15 demand on that part of the chain and it is a step in the chain.
16 So then, what happens next? Then there is a valuable cargo.

17 That valuable cargo comes from place A to place B.
18 The valuable cargo comes into this country or goes into
19 Colombia or somewhere else and there is violence down there.
20 When you have a demand-expanding operation such as Silk Road
21 there is more demand for cargo and there is going to be
22 whatever violence that results. So, Silk Road is not involved
23 in these initial stages.

24 The drugs arrive here, they arrive in large
25 quantities. So, maybe the next step is further distribution.

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1 Maybe there is going to be some ease of distribution at that
2 time and Silk Road can claim credit for that or not, but the
3 idea that it is harm-reducing is so very narrow and it is
4 talking about such a privileged group able to sit in the
5 privacy of their own home with their high-speed Internet
6 connection.

7 So, this is our real world. Our real world, if we
8 make it easy and possible to buy and use drugs, are we helping
9 society? Or are we hurting society? And these are the
10 questions I have to ask. These are the values of our country.
11 Our country has made determinations through our democratic
12 process. So, I don't want to defend the drug laws. I don't
13 think it is necessary to. But, the facts that I have described
14 are clear every day in the newspapers. So, there is broad and
15 unrelenting violence known and easily observed from the facts
16 before the Court.

17 So, let's talk about your own violence.

18 So, we also have your own violence and there is no
19 doubt -- really none -- that you wanted to and paid for the
20 murders of five people to protect your drug enterprise. That
21 is not the conduct of conviction but it is relevant conduct, so
22 how is that consistent with harm reduction?

23 The submissions by the defense experts that you folks
24 put in say that we should ignore that because it wasn't
25 charged. But, that doesn't mean it didn't happen. How do you

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1 ignore that? I just really don't understand that argument at
2 all. It happened, it is there in black and white. Now, did
3 the murders happen? Well, they can't find any bodies.

4 Did you commission a murder? Five? Yes.

5 Did you pay for it? Yes.

6 Did you get photographs relating to what you thought
7 was the result of that murder? Yes.

8 So, I have read many articles about the harm reduction
9 and it is just fantasy.

10 What Silk Road really was was a social market expander
11 of a socially harmful drug that we have deemed in our
12 democratic process to be unacceptable and it was an enabler of
13 those trying so very hard to get away from it.

14 The Court notes that there is the presence of Dr. X
15 who deserves special mention in his particularly despicable --
16 that he has been pointed to as a big part of the harm
17 reduction. I have read each and every post of Dr. X and I was
18 blown away and infuriated by it. A doctor who wants to sell
19 Fentanyl patches? Expired Fentanyl patches?

20 So, it is absolutely clear that Dr. X is part of the
21 problem, he is not part of the solution and, again, it is
22 magical thinking to think so. So, let's talk about Dr. X
23 because he is an absolute enabler. He is a positive marketing
24 event to get people to use drugs. Does that mean that he never
25 ever helped people discuss how to titrate down on certain

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1 drugs? No. I'm not suggesting he didn't do that. I'm
2 suggesting that having somebody there who can also say, *Hey,*
3 *yeah, ecstasy is not a bad thing, here is how you do it.*
4 *That's fine.* That's enabling.

5 The first post of Dr. X on Exhibit 4 in Ms. Lewis'
6 affidavit is an example of the problem. He is told that an
7 individual has never done MDMA -- ecstasy -- but is interested
8 in exploring it. -- market expanding -- The individual
9 discloses that he has Type 1 Diabetes. Dr. X states that MDMA
10 would be okay nonetheless, that "dramatic changes in glucose
11 are not expected." He states that a danger is that MDMA could
12 make the user forgetful, that he might forget to test his
13 sugar, so he recommends the individual set an alarm clock. He
14 states: "I think with that, it should be enough."

15 This doctor has got a guy with Type 1 Diabetes, knows
16 nothing else about him, about to try MDMA. This is
17 breathtakingly irresponsible. It does not take a physician to
18 see this as plain common sense.

19 So, he was here and elsewhere encouraging
20 experimentation in very dangerous circumstances to another who
21 has disclosed using Lexapro, an anti-depressant, who wants to
22 use MDMA. Dr. X encourages him that he will not feel the full
23 extent of the effects of ecstasy until he has "abandoned"
24 Lexapro.

25 The irresponsibility of this statement given that this

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1 is a person who may have depression already -- he doesn't know
2 if Lexapro is prescribed for depression or something else --
3 and given the possible known effects of MDMA which include
4 further depression possibly afterwards, is breathtaking.

5 In another post he glibly advises that "all drugs are
6 absolutely harmless. They won't, in his words, assault you or
7 rape you.

8 To an 18-year-old who states he is concerned that he
9 has a developing brain Dr. X advises: "but given how you're on
10 Silk Road and your mannerism of speaking, be careful, and I
11 feel you'll be fine. Stick to psychedelics."

12 Another asked about combining MDMA with an SSRI and
13 Dr. X advises that there is a theoretical risk but, in his
14 opinion, it is overestimated.

15 And in a private message between Dr. X and an
16 individual he states to the individual he will sell him 75
17 milligrams of Fentanyl patches. He shipped them from Spain.

18 So, he puts in a declaration in this matter and says
19 he is unaware of a single overdose associated with Silk Road.
20 I asked the question about the woman curled up in the fetal
21 position he had been told about and then he then did respond.
22 But, what he is doing is enabling and what he is doing is
23 breathtakingly irresponsible.

24 The other declarants also described why Silk Road is
25 harm reducing and none consider the upstream or the collateral

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1 violence and the social costs that I have described. There has
2 been much focus on the drug trafficking but there, of course,
3 that is only one aspect of the site. There is also a wide
4 array of computer hacking tools available and fake
5 identification documents. What kind of harm reduction can be
6 found there? What kind of harm reduction can be found in the
7 sale of computer hacking tools? What kind of harm reduction
8 can be found in fake identification documents? Did anybody
9 expect them to be posted on the wall and just looked at? No.
10 The expectation, the reasonable expectation would be use. So,
11 that's fraud. How is that harm reduction in our society? Is
12 it harm reduction to the fraudster user? Maybe. Is it harm
13 reduction to the recipient? Oh, most certainly not.

14 So, general deterrence.

15 So, defense counsel has argued that general
16 deterrence, through sentencing, is illusory. And I have
17 listened very closely. I have read very, very closely the
18 articles and interestingly, in a study cited by defense
19 counsel -- which is Kleck as the lead author -- the author
20 acknowledges, right towards the back of the article, "It is
21 also possible that unusually highly publicized punishment
22 events may generate deterrent effects that the routine, largely
23 unpublicized punitive activities of the criminal justice system
24 ordinarily do not."

25 This is a case in which general deterrence plays a

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1 particularly important role. This is one of those cases. It
2 is a case without serious precedent. What you did was
3 unprecedented and in breaking that ground as the first person
4 you sit here as the defendant now today having to pay the
5 consequences for that.

6 There is significant public interest in this case in
7 terms of the social utility analysis or any kind of risk reward
8 analysis. For those considering stepping into your shoes,
9 carrying some flag, some misguided flag, or doing something
10 similar, they need to understand very clearly and without
11 equivocation that if you break the law this way there will be
12 very, very severe consequences.

13 You don't bear only the general deterrence you also
14 bear the responsibility for the other factors as well. That is
15 just one element in the analysis.

16 For personal deterrence it is also an issue here. It
17 is clear you did lead a double life. Frankly, I can't make a
18 judgment about which of you to know, which of you to rely on,
19 and which of you to believe. You were able to create an
20 identity for friends and family that was entirely different
21 from that which was separate from the sweeping criminal
22 enterprise that you ran. In the quotes that I have already
23 read you stated you changed your name, developed an alibi, you
24 were able to BS when necessary. And I take you at your word in
25 that, that you were able to do all of those things.

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1 It is notable that you were prepared to flee; that
2 having acquired new identification because you acquired your
3 own array of fake identification -- nine of them -- that you
4 were in the process of obtaining alternative citizenship. You
5 had flown down to Dominica, had an interview and filled out the
6 form and were doing that. You just didn't pull the trigger
7 fast enough.

8 It is also notable that the reasons that you started
9 Silk Road were philosophical and I don't know that it is a
10 philosophy left behind. And except for your family and friends
11 and the statement you made today, I don't know that you feel a
12 lot of remorse for the people who were hurt. I don't know that
13 you believe you hurt a lot of people. I don't think you know
14 that you hurt many.

15 Let me comment now on the many letters of support you
16 received discussing your character. I read each and every one
17 of them with care. I have read them more than once. They are
18 beautiful letters. These are letters written by a vast, broad
19 array of people which are a statement that is extraordinary for
20 you because they are, as I said earlier, from every phase of
21 your life and they tell different stories and they tell
22 different anecdotes about you. They reveal a man who was
23 loved, who has built enduring and significant relationships
24 over a lifetime and maintained them. The letters reveal you as
25 intelligent, that you displayed great kindness to many people,

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1 that people believed in you when you were younger and believe
2 in you still. The letters that your supporters wrote express
3 experiencing great pain at your incarceration and concern for
4 your future. Most letters ask this Court to impose the lowest
5 possible sentence and those that do not, they don't see it one
6 way or another. Nobody is asking for anything else. The
7 letters are profoundly moving.

8 I have thought about them and read them over and tried
9 to reconcile them with the facts I know about this case. There
10 is no reason to make a choice between these two people that I
11 see that are on display -- the Ulbricht who is the leader of
12 the criminal enterprise and the Ulbricht who is known and
13 loved. What is clear is that people are very, very complex and
14 you are one of them. They are made up of many different
15 qualities and many characteristics with no one quality defining
16 them. And there is good in Mr. Ulbricht, I have no doubt, but
17 there is also bad, and what you did in connection with Silk
18 Road was terribly destructive to our social fabric.

19 Now, there have been the issues of sentencing
20 disparities raised. Defense counsel raised that in his letter
21 of May 28th and also today with respect to Mr. Nash. Mr. Nash,
22 who was sentenced before Judge Griesa to time-served, that was
23 17 months. That individual was a moderator for a period of
24 time on Silk Road. He was a very, very different person than
25 you. It's a person way up on top of the hierarchy and a person

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1 way down in the hierarchy. In any event, he was given a
2 downward role adjustment for having a non-leadership role, a
3 minor role. He was also safety-valve eligible and he made
4 proffers to the government. Also, his sentencing transcript
5 was 8 pages long. It must have lasted -- I don't know -- 10
6 minutes? And, there is no rationale. So, you are not
7 similarly situated but nor can anybody draw any kind of
8 comparison based upon any rationale that was put forward.

9 Now I want to talk about forfeiture because I am going
10 to go into the imposition of sentence but I am going to do
11 forfeiture first.

12 The government seeks forfeiture here in the amount of
13 \$183,961,921. The superseding indictment contains a forfeiture
14 allegation as to all seven counts but of course we have
15 dismissed certain counts.

16 The Court finds that \$183,961,921 is subject to
17 forfeiture pursuant to the applicable statutes and that is
18 21 U.S.C., Section 853(a)(1) as to Counts Two and Four, and
19 14 U.S.C. 982(a)(2)(B) as to Counts Five and Six, and 18 U.S.C.
20 982(a)(1) as to Count Seven.

21 Rule 32.2(b)(1) of the Federal Rules of Criminal
22 Procedure outlines the procedures for criminal forfeiture.
23 After a guilty verdict is returned on a count with respect to
24 which the government has sought criminal forfeiture, the Court
25 must determine what property is subject to forfeiture under the

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1 applicable statute. If the government seeks that personal
2 money judgment, the Court must determine the amount of money
3 that the defendant will be ordered to pay. The government must
4 establish the nexus between the offense and the forfeiture
5 requests by a preponderance of the evidence. *Capoccia*, (2d
6 Cir. 2007).

7 Under 21 U.S.C. 853(a)(1) and 982(a)(2)(B), the
8 government is entitled to forfeiture of proceeds obtained
9 directly or indirectly as a result of the offenses in Counts
10 Two, Four, Five and Six.

11 Under the Second Circuit's decision in *Contorinis* (2d
12 Cir. 2012), the Court may order the defendant to forfeit
13 proceeds received not by him but "by others who participated
14 jointly in the crime, provided the actions generating those
15 proceeds were reasonably foreseeable to the defendant." I
16 find, by a preponderance of the evidence, that they were.

17 Here, the government has established by a
18 preponderance of the evidence that the sales of Silk Road of
19 illegal drugs total at least \$182,962,583 and that the sales of
20 false identification documents totaled at least \$1,001,636.
21 And that is Government Exhibit 940A and Government Exhibit
22 940B.

23 At trial, Brian Shaw testified that these figures
24 reflects Silk Road sales specifically categorized in
25 transactional records (Transcript 1929:1 through 1934:13) and

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1 that these sales were foreseeable to the defendant in his role
2 as the Dread Pirate Roberts.

3 In addition, under 982(a)(1) the government is
4 entitled to forfeiture of property, real or personal, involved
5 in the money laundering offense in Count Seven.

6 The Circuit has held even where a defendant does not
7 retain money laundered property he will be subject to
8 substitution of assets, i.e., a money judgment, so long as he
9 conducted at least three separate transactions in any 12-month
10 period involving at least a total of \$100,000 or more. I
11 should mention that money laundering allowed people on the
12 website to exchange money that, circumstantially the inference
13 is clear, was obtained for one purpose to exchange it into
14 currency and cash out and launder that money.

15 So, in this case, all funds passing through Silk
16 Road's Bitcoin-based payment system were involved in the money
17 laundering offense in Count Seven. The Bitcoin-based system
18 promoted and facilitated illegal transactions on Silk Road and
19 concealed the proceeds of those transactions. It also
20 concealed the identities of and locations of users. Government
21 Exhibit 119; it is Mr. Der-Yeghiayan's testimony.

22 The defendant was involved in laundering well beyond
23 \$100,000 through many more than three transactions over a
24 12-month period. That evidence is clear and I find it by far
25 more than a preponderance of the evidence. He is liable for

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1 all the funds that passed through Silk Road regardless of
2 whether he personally retained them.

3 I also note that the forfeiture amount is not an
4 "excessive fine" under the Eighth Amendment but I say it *sua*
5 *sponte* given that is over \$180 million. While the amount is
6 significant, it is no more significant than the revenue that
7 was generated through the sales of illegal drugs and fraudulent
8 identification documents on Silk Road and money laundering, a
9 criminal enterprise which the defendant designed and operated.

10 Accordingly, the Court does find that \$183,961,921 is
11 subject to forfeiture and hereby enters an order of forfeiture
12 pursuant to 32.2(b)(2) and I will sign the order following this
13 proceeding.

14 The Court is not going to impose restitution. While
15 there are victims that are harmed, it is not quantifiable in
16 terms of money damage.

17 Let me go back now to the other aspects of sentencing.

18 The guidelines here as we know are life, but the Court
19 has made an independent inquiry under 3553(a) and my sentence
20 is not a Sentencing Guideline sentence. I have given the
21 sentence a great deal of thought, as I have said, and I have
22 considered each potential increment of time and I have
23 considered that in terms of what it means to you, what it means
24 to other people in your family, and also what it means to
25 others in our society who are appropriately considered under

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1 3553(a) and to the extent that they are.

2 I have examined each potential year of incarceration
3 carefully and I am humbled by this responsibility that requires
4 one person to judge another and that one judge can sit in our
5 society and determine what society deems an appropriate and
6 just sentence. But, I was appointed to do this task and I sit
7 here as a representative of our society and I sit here with a
8 flag of the United States of America representing our
9 democratic process and it is to me to mete out a just sentence
10 and preserve the safety of our community so I take this very
11 seriously. I must impose a just sentence taking into account
12 all applicable factors.

13 It is with all of that in mind that I now pronounce
14 the remainder of the sentence. So, Mr. Ulbricht, would you
15 please stand, sir?

16 Mr. Ulbricht, it is my judgment delivered here, now,
17 on behalf of our country, that on Counts Two and Four you are
18 sentenced to a period of life imprisonment to run concurrently;
19 on Count Five you are sentenced to five years' imprisonment to
20 run concurrently; on Count Six, you are sentenced to 15 years'
21 imprisonment also concurrent; and for money laundering in Count
22 Seven, you are sentenced to 20 years, also concurrent.

23 In the federal system there is no parole and you shall
24 serve your life in prison.

25 I make this judgment mindful of the tremendous pain

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1 that I am causing you and all of those who you love. I make
2 this judgment mindful of the crimes that you have committed and
3 the needs for the severest possible penalty to be imposed.

4 There must be no doubt that lawlessness will not be
5 tolerated. There must be no doubt that no one is above the
6 law, no matter the education or the privileges. All stand
7 equal before the law. There must be no doubt that you cannot
8 run a massive criminal enterprise and, because it occurred over
9 the Internet, minimize the crime committed on that basis.

10 After deep contemplation and much searching, I believe
11 that this sentence and no other is sufficient but not greater
12 than necessary to meet the factors under 3553(a).

13 In the unlikely event that you are ever released, I
14 also impose a period of lifetime supervised release on Counts
15 Two and Four to run concurrently; three years on Counts Five,
16 Six and Seven to run concurrently; and the usual conditions
17 shall be imposed. There will be a special condition that you
18 will have to submit your person, computer, and place of
19 residence to reasonable searches by the probation office.

20 There is a required special assessment of \$100 for
21 each count on which you are sentenced which is \$500 because
22 there are only five remaining counts.

23 I do not impose a fine because the Court has imposed a
24 very large forfeiture order.

25 Counsel, is there any legal or other reason why

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1 sentence cannot be imposed, as stated?

2 MR. TURNER: No, your Honor.

3 MR. DRATEL: No, your Honor; other than what we have
4 already stated on the record.

5 THE COURT: The Court does impose the sentence, as
6 stated.

7 Mr. Ulbricht, you have a right to appeal. Any notice
8 of appeal must be filed within 14 days of the filing of the
9 judgment of conviction in this matter. If you cannot afford
10 the costs of appeal, those costs shall be waived and you can
11 apply to proceed in forma pauperis to have those costs waived.

12 Now, the defendant made an application to the Court to
13 recommend that he be housed in a facility that may be at a
14 lower security level than he would otherwise score. I decline
15 to do so. The BOP is best positioned to determine where the
16 defendant is housed. I will, however, make a recommendation he
17 be housed in New York, Arizona, or Florida, if possible.

18 There is also a Rule 38 application that the Court
19 recommend that he not be designated to another facility pending
20 appeal in order to assist with that appeal. I do grant that
21 motion and the Court will make that recommendation. So,
22 Mr. Ulbricht, to the extent that the Court's recommendation is
23 followed, you would be housed in the New York area until your
24 appeal has been completed or whatever appropriate time is
25 determined by the BOP.

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1 Anything further?

2 MS. LEWIS: Yes, your Honor. We would like to ask for
3 specific language regarding the designation request after
4 further consultation with the family.

5 First, while we understand that you don't -- we will
6 be asking for the waiver of the public safety factor in light
7 of the fact that the BOP still has the authority to do so. If
8 they determine so, we would ask if they do waive that, that he
9 be designated to FCI Petersburg 1 which is a medium, and that
10 you would recommend that they do so in light of the fact that
11 Mr. Ulbricht's family is in the Richmond area. And, in the
12 alternative, if they don't waive the public safety factor,
13 designation USP Tucson or as a second choice USP Coleman 2 on
14 the basis that both of those facilities have special needs
15 yards which are more appropriate.

16 (Defendant and counsel conferring)

17 THE DEFENDANT: Second choice Allenwood.

18 MS. LEWIS: Second choice Allenwood, then.

19 That's all, your Honor.

20 THE COURT: So, the Court will make a recommendation
21 that while the BOP should determine the appropriate security
22 level, if its determination is such that designation at one of
23 those facilities is possible, that the Court recommends that
24 the housing occur in that facility in that order. All right.

25 Anything further?

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1 MR. TURNER: The original indictment should be
2 dismissed, your Honor.

3 THE COURT: Thank you. The original indictment is
4 dismissed.

5 Anything further?

6 MR. TURNER: No, thank you.

7 MR. DRATEL: No.

8 THE COURT: Thank you. We are adjourned.

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